

FOSTERING AN INCLUSIVE DEMOCRACY
A STRATEGIC VISION TO PROTECT & EXPAND VOTING RIGHTS



TRANSFORMATIVE JUSTICE COALITION
Barbara Arnwine, President

In partnership with



W.K. KELLOGG FOUNDATION

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FOSTERING AN INCLUSIVE DEMOCRACY

A REPORT ON THE 2015 LANDSCAPE OF CIVIC ENGAGEMENT BARRIERS, CHALLENGES, AND OPPORTUNITIES

Executive Summary

Renowned national voting rights expert, civil rights leader, and advocate, Attorney Barbara R. Arnwine led a team of attorneys, researchers and voting rights policy experts to develop a comprehensive analysis of the current state of voting rights in the United States. This report is a result of a comprehensive literature review, in-person interviews with state and national voting rights legal and policy experts and focus groups with voting rights organizers.

Fostering an Inclusive Democracy: A Strategic Vision to Protect and Expand Voting Rights provides an overview of our nation's pioneering and history making model of democracy and our expansion and retrenchment from ensuring the franchise to all citizens. Drawing from the lesson from the past with our eye on the future *Fostering an Inclusive Democracy* provides a forward looking strategic vision. Our recommendations are designed to advance our nation's lofty goal of securing the rights of full citizenship to all Americans by ensuring unfettered access to the vote.

In this report we seek to summarize the issues and challenges for equal voting rights and political participation faced by vulnerable communities, which included Native Americans, African Americans, Latinos, Asian Americans, women, youth, people with disabilities, formerly incarcerated persons, rural populations, and low income communities. However, we recognize that each of these populations faced complex and multifaceted challenges which this report, given its generalized approach, may not fully explore.

In addition to the national assessment, this report includes an on the ground assessment of the state of play of voting rights, including voter suppression efforts, in New Orleans, Louisiana, Michigan, Mississippi, and New Mexico.

We detail a number of key findings and recommend the development, implementation or enhancement of 25 strategic interventions. Our voting rights recommendations are organized under two major categories: *Dismantling Voting Barriers* and *Promoting Civic Engagement*.

As the 20th century fight was for the expansion of the franchise, the opening decades of the 21st century have been characterized by a multi-front assault on voting principally targeting people of color, youth and students, persons of low income, language minorities, the elderly, and people with disabilities. Divorced women who have changed their last

name and transgendered individuals have also been negatively impacted by restrictive voting laws and procedures. Toward the goal of *Dismantling Voting Barriers*, we detail and recommend:

- The convening of a National Network and a Blue Ribbon Commission to promote an open and inclusive democracy to ensure greater identification of the barriers to voting and more effectively coordination of efforts to ameliorate and eliminate those barriers;
- Passage of federal legislation to restore and strengthen the provisions of the *Voting Rights Act*;
- Passage of the *Native American Voting Rights Act* to provide protections for Native American voters;
- Continue to support National Congress of American Indians' non-partisan Native Vote Initiative and formalize and provide support for the Native American Voting Rights Coalition;
- Launching a nationally coordinated legislative campaign in the states to "Repeal, Replace, and Enact" voting rights reforms;
- Enhancement of voting rights and voter protection litigation;
- Creation of a monitoring system for electoral changes;
- Assistance and advocacy for ex-felon and returning citizens to ensure their re-enfranchisement;
- Support for state laws and allocation of resources to ensure equal election facilities, poll workers and equipment; and, the
- Establishment of a permanent National Voter Information and Assistance Hotline.

Over 51 million eligible Americans are unregistered. This represents 24% of the adult voting age population. Insufficient research exists on disengaged and infrequent voters. Even when registered, the low voter turnout of voters is deplorable. In an effort to *Promote Greater Civic Engagement* our report recommends:

- Support for voter registration reforms such as Same Day and Online voter registration, pre-registration of youth, registration of 18-year olds leaving foster care, and automatic voter registration;
- The development of a 10-Year Civic Learning, Leadership, and Engagement Initiative that includes a special focus on increasing civic engagement by Latino teenagers and building leadership voting rights and civic leadership among African American and Native American youth;
- Providing direct support to both federally-recognized tribes as well as off-reservation Native organizations to enhance efforts to engage, educate and mobilize American Indian and Alaska Native voters and increase Native American representation at all levels of federal, state and local government;
- Building robust and sustainable State tables where networks of state-centered voting rights organizations can more effectively serve their communities by collaborating and leveraging their resources;

- Launch of a *Countdown to 2016 Campaign*, a coordinated non-partisan monthly countdown campaign to sustain awareness, knowledge, and excitement for the upcoming election
- Improvement and expansion of voter contact strategies;
- An investment in public education programs that focus on civic engagement;
- National and regional convening addressing voting rights and voter representation issues including redistricting and political leadership among African American women;
- Significant expansion of candidate development programs; and
- Engagement of faith communities and more organizers in civic engagement of voter participation campaigns.

Finally, we make recommendations in four ancillary, yet important, areas: communications, research, money and politics, and the engagement of people of color elected state leaders. We recommend:

- Significantly enhancing communications to disseminate accurate and motivational information about the power, obligation, and positive impact of voting;
- Ensuring that there is sustained research that measures the impact of voting trends, election laws and changes in demographic and the voting environment;
- Developing and implementing strategies to address the civil rights implications of unlimited money in elections; and,
- Maximizing the strength of Black, Latino, Asian, and Native American State Caucuses.

America was founded as the world's leading democracy based on the principle that the power belongs to the people. Though narrow in its definition of who should be included, this new way of governing had at its foundation a revolutionary and transformational vision of how to create real and lasting prosperity and freedom.

The current imperative for an inclusive democracy is paramount to the future of this nation. Political democracy is based on the notion that power is shared equally among all citizens. When this power is withheld from segments of the community the entire community suffers, discord erupts, economic engines grind to a halt and governments fail.

Fortunately, American strength is in the persistent engagement and perseverance of its citizens. The strategies contained in this report affirm that our ideal is not an aspiration that is out of reach; but rather, with better and coordinated organization, adequate capacities, expanded infrastructures, intellectual rigor, and more funding investments, we can regain status as the most inclusive and expansive democratic society.

It is our hope that this report inspires dialogue, community engagement, and innovations in voting rights advocacy and action that lead to positive results at the polls and in policy priorities of those who occupy our State houses, Congress, and the White House.

INTRODUCTION

In the 19th century the United States was heralded as the world leader in allowing popular participation in elections. This democratic victory, however, had limitations that today seem almost unfathomable. At the same time that state legislatures opened suffrage to all white men, they also closed the door on women, free African American men and Native Americans, Latinos, and Asian Americans. Such has been the story line of America's democratic experiment: striving for an ideal in an evolving understanding of our commitment to liberty, justice, expansion and retreat from our commitment to political rights.

On the 51st Anniversary of the *Voting Rights Act* of 1965 (VRA), we again find that our commitment to equal access to the franchise faces challenges. This report details the series of serious legislative threats and unnecessary barriers to civic participation for many African Americans, Latinos, Native Americans, Asian Americans, language minority voters, youth and student voters, the elderly, people with disabilities, and people with low incomes. Fear of demographic change as people of color increase in number has undergirded this 21st Century movement of voter restrictions.

Foremost of concern is that some people of color, youth voters, single women and low income voters often are the most progressive voters. If their vision and perspectives on public policy were actually truly represented in the local, state and federal legislatures, this nation would have a transformed and more progressive policy agenda. Civil rights protections, labor protections, educational policy, criminal justice policy, spending and much more could be dramatically different if elected officials truly reflected the sentiments of this new emerging American electorate.¹ Policies promoting children's health and well-being would be much more prevalent and expansive. A recent study concluded that African Americans are the most disadvantaged in policy outcomes regarding spending measures.² Not only is our democracy impaired by this wave of voter suppression, so is the health of our nation's progressive policies for change.

Even in the face of this daunting landscape, there are many positive developments in the area of electoral reforms, new civic engagement strategies, and a vital core of bright, innovative, diverse, and dedicated staff in a growing pro-democracy community. The community enjoys a seasoned and experienced core of experts who remain active in pursuing a vision of voting equality through their advocacy. The challenge of our times is to leverage the strengths of this embattled community and expand these affirmative reforms while eliminating the restrictive barriers. Even though confronted with a significant uphill struggle, there is immense wisdom, vision, determination, and energy in this overall community.

In addition to being nationwide in scope, this report presents a general assessment of the landscape of voting rights in the city of New Orleans and the states of Mississippi,

Michigan, and New Mexico, based on research and direct interviews with civil rights, civic engagement, voting rights, and pro-democracy leaders in those geographic areas.

The central purpose of this report is to recommend the best strategies for reducing and overcoming these challenges and advancing robust civic participation. The report focuses on those sustainable and high impact strategies likely to have the most catalytic influence on fostering an inclusive democracy.

The strategies included in this report are designed to be transformative. We seek to create a new American sensibility where not only our laws, but also the hearts and minds of Americans demand equality in our democracy.

PRESERVING UNFETTERED ACCESS TO THE BALLOT

Since 2011, there has been a nationwide movement in many state legislatures to enact laws that purport to protect the integrity of the vote but in reality are designed to impede access to the franchise for many vulnerable populations. In 2015, we are engaged in the fifth year of an entrenched and formidable battle to preserve unfettered access to the ballot. Most onerous of these suppressive legislative actions has been the passage of strict photo ID laws, which require IDs that are not commonly possessed by 11% of the electorate, over 25 million voters.

These laws have posed serious difficulties for Native Americans, Latinos, African Americans, Asian Americans, language minority voters, people with disabilities, some elderly, youth and student voters, low income voters, divorced women who have changed their last names, and the transgendered individuals. States have sought to:

- restrict the ability of voter registration groups;
- reduce early voting days and hours (which are strongly used by African American and Latino voters);
- refuse to process voter registrations;
- operate purges and voter caging (the practice of sending mail to addresses on the voter rolls, compiling a list of the mail that is returned undelivered, and using that list to purge or challenge voters' registrations and votes on the grounds that the voters on the roll do not legally reside at their registered addresses);
- require ballots to be cast in the correct precinct or the voters' votes would not have been counted (while prohibiting poll workers from directing voters to the correct precinct);
- impose proof of citizenship laws;
- eliminate Same Day Registration during early voting; and,
- withdraw pre-registration for 16-17 year olds.

Local boards of election have failed to process voter registrations and reduced and consolidated precincts making it hard for low-income people and Native Americans to travel to precincts located miles away. Minority language assistance obligations are ignored by way too many jurisdictions. People with disabilities are denied access to polling sites, assistance, and accommodations including curbside voting. Such actions are unbecoming of the world's leading democracy and must be undone.

These attacks on the franchise have come from many quarters. Private forces have used deceptive practices and voter intimidation to deter the voting by African Americans, Latinos, Native Americans, students and low-income citizens. Threatening flyers flood African American, Latino, and immigrant communities perversely claiming that voters will be arrested at the polls for not paying traffic tickets, child support, and utility bills or deported for "looking foreign." In 2012, the Election Protection program had to fight to remove deceptive and intimidating billboards in African American and Latino communities. In 2014, live and robo-calls were made to predominantly African American communities in Virginia, North Carolina and Indiana informing high turnout voters that because of their great records of voting, they need not come to the polls but could vote by phone. During this period, private groups publicly announced their intent to conduct voter challenger programs at predominantly African American and Latino polling sites in several states, including Florida, Pennsylvania, New Jersey, Texas and others.

Compounding the effects of this threatening movement, in 2013 the Supreme Court of the United States by its decision in *Shelby County v. Holder* invalidated sections of the *Voting Rights Act* potentially exposing voters in over 12,000 jurisdictions to state imposed racially discriminatory policies.

By opposing disenfranchising legislative proposals at the state and local level and litigating in the federal and state courts, pro-democracy advocates have fought back. In 2014, millions of voters of color, students, elderly Americans, people with disabilities and formerly incarcerated persons faced a landscape of barriers to their ability to cast a ballot and have it counted. In this current year of 2015 over 113 repressive voting bills are pending in state legislatures, with one restrictive bill having passed.

As this battle has raged, pro-democracy advocates have been stretched thin without sufficient resources to respond actively and adequately to this immense set of challenges. Sadly, many Caucasian Americans have no knowledge of this fight and assume the major problem in our democracy is indifference and poor voter mobilization. Effective communications to our fellow Americans about these threats to our inclusive democracy is critical and sorely needed.

As we face the advent of the 2016 Elections, the culmination of these adverse forces threatens to reduce political power for large segments of our population. Consider that 2016 will be the first presidential election conducted without the protections of Section 5 of the *Voting Rights Act*. Notably, a number of voter photo identification and other voter restrictions will be implemented for the first time in 2016.

Many have compared this era to that of the end of Reconstruction where artificial barriers to voting wiped out 32 years of voting rights progress by African American men in Congress and brought forth the dark ages of Jim Crow. Yet, there are significant differences and strengths that must be leveraged at this time within progressive pro- democracy communities to prevent retrogression and to fight to give birth to a new and lasting transformation in our march toward a more perfect union.

Our research and that of many others reveal that the threats come from within as well. Low civic engagement due to voter disengagement from the political process, the lack of quality candidates of color and the lack of knowledge about how to navigate the election process results in unrepresentative government and distortion in our elections results. While we do not presume to have all the answers, this report provides a strategic roadmap to increasing the observed relevance of civic engagement in these communities.

There are new challenges and opportunities on the horizon such as *Evanwell v. Abbot* (redistricting challenge recently heard by the Supreme Court), the 2018 mid-term elections, the 2020 Census, and redistricting in 2021. Democracy advocates must have the capacity to respond and to be proactive in preparing to address these looming challenges and to capitalize on the opportunities to secure the franchise.

POWERFUL RAYS OF HOPE

We believe in the inherent goodwill of the American people. When freed from a sense of scarcity and reminded of the arc of our history toward inclusion, justice and freedom, the American people understand that we are all connected and our success as a nation relies on our ability to allow each and every person to fully participate and reach their full potential.

Powerful rays of hope can be found in the many electoral reforms that have been enacted by some state legislatures, the successful Post-Shelby litigation, the greater collaboration among civil rights, voting rights, civic engagement and pro-democracy communities, growth of the sector, the determination in communities of people of color to protect the vote, creative election reform proposals and by the promise encompassed in the recommended strategies of this report. In 2015, there were 113 voter suppression bills pending in the states. However, in counterbalance to this movement, there were 464 voter expansion bills pending in the states! These proposed reforms ranged from online voter registration, same day/election day registration, automatic voter registration, pre-registration for 16-17 year olds, state voting rights acts, state preclearance laws, voting by mail, language accessible voter bill of rights, and other measures that lowered barriers to voting and encouraged more civic participation.

A new generation of civil rights, civic engagement, voting rights and pro-democracy thought leaders, and activists are emerging. And youth activism is on the rise again with the Dreamers and the Black Lives Matter movements. There is massive potential in creating a policy centered and progressive electorate.

STRUCTURE OF THE REPORT

This report seeks to provide a broad assessment of the current voting rights landscape and challenges to civic engagement and transformational strategies to advance an inclusive democracy. Given the complexity of this topic, the report does not seek to address every issue that confronts voting rights and civic engagement. It takes broad strokes at background, history, and the current challenges, while prioritizing the top needed strategies.

This report is divided into eight sections. *Section 1: Fostering an Inclusive Democracy* provides an overview of the entire report outlining the strengths of our American democratic processes; the weaknesses in our current voting systems; the opportunities embodied in our voting rights and election protection advocacy networks; and the threats presented by voter suppression efforts. *Section 2: Methodology* details the methods used to develop this report and how we reached the conclusions and recommendations.

Section 3: Contract of Centuries chronicles the history of voting rights in America from Women's Suffrage through the passage of the *Voting Rights Act of 1965*, contrasting the efforts to expand and restrict access to the franchise. *Section 4: 21st Century Assault on the Right to Vote* highlights the anomaly of the 21st Century being distinguished by a movement to restrict the vote after the 20th Century was characterized by a persistent march to expand the electorate.

Section 5: Spotlight on Native American Voting Rights explores America's shameful history and continued marginalization of our indigenous peoples, and the unique voting challenges of Tribal sovereignty for Native American.

Section 6: National Legislative Overview describes more fully the legislative battle which has undergirded the assault on the right to vote and the emerging countervailing movement for positive electoral reform. *Section 7: Strategies for Protecting the Right to Vote* and *Section 8: Promoting Civic Engagement* are the centerpieces of this report. They explore the over 25 recommended strategies for change, including 9 strategies to address barriers to the vote and 14 strategies to address voter disengagement. This report concludes with a set of suggested next steps to proceed with the recommended strategies.

SECTION 2: METHODOLOGY

Renowned national voting rights expert, civil rights leader and advocate, Barbara R. Arnwine, has led the process for the preparation of this report. An intentional decision was made in the conceptualization of the report to capture the best wisdom of the voting rights, civil rights and civic engagement community in devising the strategies, which are the center of this report. This decision drove the qualitative methodology employed in compiling this report.

This report was compiled by undertaking a comprehensive literature review, in-person, and telephone interviews, legal research of selected voting rights cases, an extensive review of all electoral legislative proposals in the states since 2011, and a review of pending federal legislation to respond to *Shelby County v. Holder*. We also undertook on-the-ground site visits to four geographic regions- New Orleans, Louisiana; Detroit, Michigan; Jackson and Biloxi, MS; and Albuquerque, New Mexico- where we conducted individual interviews, a series of group meetings, and one mass meeting.

In addition, Ms. Arnwine and members of her team with the assistance of Transformative Justice Coalition (TJC) Board Member, Brian McCoy, organized a national conference call of persons from 12 states who were convicted of felonies or formerly incarcerated to discuss the special impediments of felon disenfranchisement and their experiences with vote restoration procedures.

LITERATURE REVIEW

The research team for this report undertook a systematic, explicit, and reproducible review of the literature available to identify, evaluate, and synthesize the existing body of completed and recorded work produced by researchers, scholars, and practitioners in the field of voting rights. Given the limitations of time and resources, this review was thorough but not comprehensive. This report includes references from 99 published articles, 19 reports, and 6 cases. The State reports, which are provided as an addendum, include references from an additional 3 books, 27 published articles, and 9 reports.

QUALITATIVE RESEARCH

Over an intense period of 6 weeks, Ms. Arnwine and her team conducted over 87 interviews of national, state and local voting rights experts including law professors, litigation experts, leaders of voting rights, civic engagement and civil rights organizations, youth activists, members of the faith community, voting rights strategists and organizers, some elected officials, election administration officers and telecommunications specialists. Ms. Arnwine personally conducted or participated in over 50 individual interviews and also presented on voting rights and led a question and answer session at a mass meeting in New Orleans which was attended by 100 people.

Ms. Arnwine held many of her interviews during various annual civil rights and legal convenings, including: July 12-15, 2015 at the NAACP Convention in Philadelphia, PA; July 18-22, 2015 at the National Bar Association Convention in Los Angeles, CA; and, July 23-25, 2015 at the Annual Convention of the Southern Christian Leadership Conference in Baton Rouge, LA. Input was also derived from two other convenings in which Ms. Arnwine participated: the Missouri Black Legislators Foundation Annual Conference, July 10-11, 2015 in St. Louis, MO; and, the Civil Rights Voting Rights Strategy Convening August 5, 2015 in Atlanta, GA. Ms. Arnwine also interviewed many people in person and

by telephone in her office and at other venues.

All information gathered from the interviews has been generally summarized without individual attribution unless authorized by the interviewee.

In addition, vital assistance and information was obtained during visit preparation conversations conducted with W.K. Kellogg Foundation State Directors including: William Buster of the Mississippi and New Orleans office; Kara Carlisle of the New Mexico office; and, Ali Webb of the Michigan office. The geographic on-site interviews, listening sessions, and meetings were held as follows:

- July 27-28, 2015, New Orleans Site Visit conducted by Barbara Arnwine, LaKeila Stemmons, and Brandon Wallace;
- August 5-6, 2015, Detroit, Michigan Site Visit conducted by LaKeila Stemmons;
- August 6-7, 2015, Mississippi Site Visit (in Jackson, MS and Biloxi, MS) conducted by Barbara Arnwine and Andrew Street; and,
- August 10-12, 2015, Albuquerque, New Mexico Site Visit conducted by Barbara Arnwine, LaKeila Stemmons, and Andrew Street.

There were other key regions that the team desired to visit but were thwarted by time constraints including Indian Country in New Mexico, the Mississippi Delta and East Lansing, Michigan; however, leaders and activists from these areas were interviewed.

These regional trips resulted in sage perspectives, information sharing and key strategic recommendations which have been incorporated into the regional specific reports.

ANALYSIS & FINDINGS & RECOMMENDATIONS

Throughout the interview process key reports were recommended for review and key individuals were recommended to be interviewed. The reports were assembled, reviewed and incorporated into this report. In addition, the team reviewed voting rights case decisions and prepared original charts and compilations of data.

Despite conducting a series of robust interviews of many of the leading thinkers and advocates in the voting rights field, Ms. Arnwine, Ms. Stemmons and the team were unable to interview many others of prominence due to scheduling difficulties and the short time frame.

Of note, given her considerable knowledge of the voting rights arena, Ms. Arnwine has inserted into the background of the document many of her own observations and added to the recommendations some of her own strategies.

Based on a review of current available literature, the findings in our interviews and other learnings for our national research, TJC developed a series of recommended strategies and areas for additional inquiry.

Mr. Satorie-Robinson read and edited the entire report. Different members of the team were assigned specific portions of the initial drafting of the report, which were subsequently reviewed and revised by Mr. Satorie-Robinson. Besides drafting a substantial portion of the strategies section and other sections of this report, Ms. Arnwine conducted a formal review of the report before submission.

RESEARCH TEAM

In order to amass the best information possible, Ms. Arnwine assembled an eight-member team including:

- Lakeila Stemmons, Esq., Project Coordinator- a 14 year experienced attorney with election campaign and civil rights experience;
- H. Alexander Satorie-Robinson, MBA, Principal Writer/Editor- an experienced legislative and policy analyst and lead investigator for a 2000 examination of voting administration in the 50 states and District of Columbia;
- Aaron Polkey, Esq., Legal Researcher- an experienced voting rights attorney;
- Halimah Naijeb-Locke, Legal Researcher- a 2015 graduate of the George Washington University School of Law;
- Andrew Street, Legal Researcher- a 2015 graduate of The George Washington University School of Law;
- Brandon Wallace- a third year law intern from the University of the District of Columbia School of Law; and,
- Dijon Kraus, Administrative Coordinator.

KEY FINDINGS & RECOMMENDATIONS

- This report details a number of key findings and recommends the implementation, development or enhancement of 23 strategic interventions. The recommendations are organized under two major categories: *Dismantling Voting Barriers* and *Promoting Civic Engagement*.
- As the 20th century fight was for the expansion of the franchise, the opening decades of the 21st century have been characterized by a multi-front assault on voting which has principally targeted people of color, youth and students, persons of low income, language minorities, the elderly, and people with disabilities. Divorced women who have changed their last names and transgendered individuals have also been negatively impacted by restrictive voting laws and procedures.
- We are now in the fifth year of an entrenched battle against voter suppression efforts.
- In the midst of opposition, there is an organized legislative effort to bring about positive electoral reforms.
- People of color, people with disabilities, language minorities, youth, students, and low income communities have yet to achieve parity in the franchise.
- Racially polarized voting persists as a major reason for underrepresentation of people of color in local, state and federal government.
- This fight against restrictive voting laws and for electoral reforms is centered in state legislative battles.
- The post *Shelby* framework has left vulnerable communities at risk as states and local governments have exploited the lack of oversight and transparency previously mandated by the VRA to operate restrictive electoral and procedural changes.
- Traumatized and embattled Civil Rights, Civic Engagement, Voting Rights and pro-democracy organizations are mostly “resource deprived” and lack capacity to address effectively the challenges of this new landscape.

- Enlistment of new allies is required in this fight. Multi-racial coalitions are essential.
- A strategic framework for re-positioning the pro-democracy movement to become a more offensive and proactive force requires infrastructural supports, maximized coordination of campaigns and programmatic activities, multi-racial coalitions, strategic communications, leadership development, voter education, investments in civic curriculum and a targeted focus on the next generation of major voting blocks, especially Latino and African American youth voters.
- State tables must be established nationwide to facilitate better statewide coordination.
- Post-*Shelby* fixes requires a new amendments to VRA, a *Native American Voting Rights Act*, new legislative campaigns, and a new national monitoring system of electoral and procedural changes
- Enhanced litigation capacity is critical post-*Shelby* to use the full array of laws and administrative procedures to protect the right to vote for all vulnerable communities, especially language minority communities.
- Investments in powerful electoral reforms are key.
- There is an urgent need to recruit, train and support better progressive pro-democracy candidates from vulnerable populations.
- The formation of a new national network is imperative.
- Support should be provided for special campaigns to repeal voter ID laws, support new measures to address accessibility barriers for Native American voters, enact state voting rights acts and fight felon disenfranchisement.
- There is a need for more research and better dissemination of reports.

- The Black, Latino, Asian and Native American legislative caucuses are not maximizing their actual power at the state levels. Targeted efforts to address this deficit must be supported.
- This is a winnable fight with the right commitment and investment in the recommended 23 strategies.

SECTION 3: CONTRAST OF CENTURIES

From the founding of our country, the centrality of access to the polls has been recognized and debated. For decades, as our understanding of what it means to be equal has evolved, the movement towards expanding the franchise was central to our understanding of what it meant to be a citizen as well. Yet none of this expansion came without heated debate and opposition from powerful forces that had secured this right and privilege for themselves.

In 2015, we commemorated the 50th Anniversary of the *Voting Rights Act of 1965 (VRA)*, one of the crowning achievements of the march towards justice. The *VRA* transformed America by enfranchising millions of Americans while simultaneously unleashing turbulent forces of resistance. Due to the power of this *Act*, today there are 10,500 African American elected officials, 6,000 Latino elected officials, 4,000 Asian American elected officials, and 73 Native American elected officials in state and federal government. Despite this incremental progress, we are still fighting heated battles over race, representation, and political power. Lawmakers have devised new strategies to keep people of color, language minorities, youth, students, and people with disabilities out of the voting booth. The Supreme Court declaring a key part of the *VRA* unconstitutional. Racially polarized voting continues to be a significant factor in contributing to the underrepresentation of all American racial groups in elected office at all levels in the United States.³

We chronicle these changes with an eye toward how our history can inform our action agenda for the future.

ENFRANCHISEMENT AND THE 20TH CENTURY

In the aftermath of the Civil War the U.S. passed the 15th Amendment providing African American men with the right to participate in the political process through the vote. This expansion was met with much resistance, especially from southern states. During Reconstruction federal troops were sent into the Confederacy to enforce this new right to

vote. Congress enacted the *Enforcement Act of 1870*, imposing criminal penalties for interference with the right to vote, and the *Force Act of 1871*, which provided for federal election oversight in the same expanded way.⁴

The 15th Amendment was very successful for a time and Black voting participation and representation in the electorate increased dramatically in the South. This period was marked by the election of the first Black representatives to Congress, in addition to hundreds of Black state and local officeholders. Reconstruction continued for a decade until the disputed presidential election of 1876. Under the agreement known as the ‘Compromise of 1877’ that resolved the dispute, federal troops were withdrawn from the South and the political gains of the ‘freedmen’ were subsequently rolled back.

As Reconstruction receded into the past during a period known as Redemption, most Blacks were prevented from voting by tactics such as literacy tests, poll taxes, and the grandfather clause, as well as intimidation and violence. The promise of the 15th Amendment was thwarted by tactics to steal elections and block the Black vote through using domestic terrorism.

After 32 years of over 40 African Americans in Congress, in January, 1901 George White gave his farewell address on the floor of Congress decrying the theft of the vote, brutal terrorism and Jim Crow laws. He stated at the end of his address: "This, Mr. Chairman, is perhaps the Negroes' temporary farewell to the American Congress; but, let me say, phoenix-like he will rise up some day and come again."

RACIAL INCLUSION AND EFFORTS TO FEDERALLY BROADEN THE FRANCHISE

The 20th century opened with the destruction of Black political power achieved during Reconstruction. The century was marked by a painful but concerted march over nine decades to expand the franchise by passage of constitutional amendments and laws to secure the franchise for women, reinstate the franchise for African Americans, broaden the franchise to all people of color, lower the voting age and expand the ability of all Americans to register to vote in federal elections.

During the Great Migration of 1910-1970, six million African Americans fled the virtual re-enslavement and brutal racism of the sharecropping south for urban centers in the Northeast, the Midwest and the Southwest. Black political power was forged in these centers in the 20th Century. Nevertheless those caught in the confines of the South continued to face barriers to voting including poll taxes; literacy tests which focused on word puzzles and obscure American political history; grandfather clauses that provided a citizen could only vote if he were a descendant of a man who could vote before the enactment of the 15th Amendment; dual primaries where an election would include a “white primary” where only white voters were allowed to participate; and, the domestic terrorism of the Klu Klux Klan,

the Council of Conservative Citizens, and other threats to employment and safety.

Another way in which White political power is created is the oft-critiqued use of gerrymandering.

“Gerrymandering results in districts that are dominated by one party, which makes elected legislators beholden only to their party’s base, which then gives them the incentive to be hardcore ideologues, which in turn makes politics so polarized.”⁵

This form of political influence was once used to create African American majority-minority districts to empower the electorate to send representatives who reflected their political and racial makeup to legislative bodies during Reconstruction.⁶ But at the turn of the 21st century gerrymandering was used to assault the political influence of majority-minority districts by breaking them up.⁷

WOMEN’S SUFFRAGE 19TH AMENDMENT

Despite the gloomy past, women marched and fought for suffrage winning the passage of the 19th Amendment during the first quarter of the Century. The 19th Amendment to the U.S. Constitution, ratified on August 18, 1920, granted American women the right to vote after a long fought battle known as the Women’s Suffrage Movement. It is a well-known fact that the United States did not extend the same privileges of land ownership and the right to vote to women citizens as it did to men citizens, and that level of inequality sparked much discord as time progressed and the disenfranchisement of women became more apparent.

“It was not until 1848 that the movement for women’s rights launched on a national level with a convention in Seneca Falls, New York, organized by abolitionists Elizabeth Cady Stanton (1815-1902) and Lucretia Mott (1793-1880) Stanton and Mott, along with Susan B. Anthony (1820-1906) and other activists, formed organizations that raised public awareness and lobbied the government to grant voting rights to women.

More than 300 people—mostly women, but also some men—attended, including former African-American slave and activist Frederick Douglas (1818-95).”⁸

The efforts to expand the vote to women concluded in the passage of the 19th Amendment and opened the doors for the largest group of voters in the present electorate to be heard.

“The gender gap—the difference between the percentages of women and men who support a particular party or candidate—has become a defining

feature of American politics and a dynamic that campaigns regularly try to maximize or mitigate, depending on the political party.”⁹

Over the last few decades, women of color have become electoral heavyweights.

“While the voting-eligible population, or VEP, of white women has increased by less than 6 percent—about 4.4 million eligible voters—over the past eight election cycles, the VEP of women of color has increased by nearly 10 times that at 55 percent. Women of color constitute more than half of vote-eligible people of color at 53 percent—35 million eligible voters.”¹⁰

Women’s suffrage broadened the franchise, yet there is still more work to be done to address the specific political concerns associated with securing the vote for all women regardless of race, employment status or economics.

CIVIL RIGHTS MOVEMENT OF THE MID-CENTURY

After years of civil rights advocacy, in January 1964, the states ratified the 24th Amendment which prohibited both Congress and the states from conditioning the right to vote in federal elections on the payment of any form of tax. Ironically, to this date, 8 states have not ratified this constitutional amendment and the State of Mississippi outright rejected the amendment. Despite the passage of the amendment, a decision by the Supreme Court of the United States would be required to wipe the scourge of poll taxes from every level of elections. The next assault on racial discrimination in voting was Title 1 of the *Civil Rights Act of 1964*, but it was universally scorned as an unacceptably weak compromise.

It would take marches, protests, the murders of civil rights activists of all races, and the televised brutality of “Bloody Sunday” to create the political climate in which the *VRA* could be enacted. The passage of the *VRA* of 1965 proved revolutionary as legal fights led to the enforcement of the Act and African Americans registered in great numbers and elected many African American elected officials over the next three decades.

The Civil Rights era is known as the time in which America truly reached the pinnacle of expansion of voting rights. The *VRA* was the ultimate result of the diligence in remedying the disenfranchisement of African Americans after the so-called “Redemption” dismantled the work of Reconstruction. The success of the *VRA* was the removal of race-based restrictions.

“After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims.”¹¹

These sentiments from the Supreme Court helped to ratify the *VRA* as an appropriate check to the state’s abuse of power in allowing state legislatures to stifle the Black vote.

LANGUAGE MINORITIES AND PEOPLE WITH DISABILITIES

Over the decades during reauthorizations of the Act, the protections of the *VRA* were expanded to include other vulnerable populations including language minorities and people with disabilities. Critically, during the 1975 Reauthorization of the Act, Section 203 was added requiring that

“Whenever any State or political subdivision, provides registration, voting notices, forms, instructions, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language.”

This provision covers localities where 10,000 persons or over 5 percent of the total voting population are members of a single minority language group, have a depressed literacy rate, and do not speak English very well. And in 1982, Section 208 was added which provides for special assistance by a person of their choice for those voters due to illiteracy, disability, or blindness, or those voters who need language assistance. It also provides that if there is no access to translated materials, then those voters are to receive assistance in their primary language.

THE YOUTH VOTE

The 26th Amendment to the U.S. Constitution, ratified on March 23, 1971, prohibits both states and the federal government from using age as a reason to deny a citizen who is at least 18 years of age the right to vote.¹² The sentiment to lower the voting age is closely associated with the mantra “old enough to fight, old enough to vote” in reference to the veterans returning from World War II who were being denied the franchise although they risked their lives to secure America’s freedom. The *VRA* initially contained provisions lowering the voting age to 18 and these provisions were heavily disputed, resulting in the Supreme Court case *Oregon v. Mitchell*.¹³ This case established Congress’s authority to set the voting age federally and per our Constitution the states cannot create contradictory law in violation of federal authority. This struggle to enfranchise veterans and other younger voters resulted in creating a most powerful electorate demographic that cannot be ignored today.

THE NATIONAL VOTER REGISTRATION ACT OF 1993

The *National Voter Registration Act (NVRA)*, also known as the *Motor Voter Act*, was meant to expand the voting opportunities for all Americans by making it easier to register to vote. This allowed for people to register while at state facilities, like the Division of Motor Vehicles (DMV), and brought more visibility to the importance of participating in elections.¹⁴ The *NVRA* is actionable in that it authorizes the Department of Justice to bring civil actions in federal court if a requirement is not met.

SHAW V. RENO SETBACK

Yet another ominous note was sounded in 1993 with the Supreme Court's ruling in *Shaw v. Reno*. North Carolina, in an effort to comply with *Section 5* of the *VRA*, submitted to the U.S. Attorney General a congressional reapportionment plan with one majority black district that was rejected on the basis that a second district could have been created to empower African Americans in this *VRA* covered state to have more voting strength.¹⁵ This second plan was objected to by five North Carolina residents who asserted that the districts were created

“...arbitrarily without regard to considerations such as compactness, contiguousness, geographical boundaries, or political subdivisions, in order to create congressional districts along racial lines and to assure the election of two black representatives.”¹⁶

The U.S. Supreme Court remanded the case back to the District court, finding that the “the unusual district, while perhaps created by noble intentions, seemed to exceed what was reasonably necessary to avoid racial imbalances.”¹⁷ This ruling proved to be a harbinger of the threat to come in the next century to the promise of political participation for racial minorities embodied in the *Voting Rights Act*.

SUMMARY

From this nation's founding as the leading world democracy, and through women's suffrage, the civil rights movement, and the *VRA*, the sustained and vigilant efforts of pro-democracy advocates have been essential to protecting and expanding the franchise. No less is required of us today. This report chronicles that history with a view to making wise choices about how best to achieve our vision of one America where every vote counts.

SECTION 4: 21ST CENTURY ASSAULT ON THE RIGHT TO VOTE

The bitterly disputed first presidential election of the 21st century brought to fore numerous systemic threats to the equal right to vote. Although “hanging chads” and antiquated voting machines dominated the *Bush v. Gore* news cycle, the untold story of that election was the alarming racial disparities in access to the polls. These included extremely long lines at polling places in minority neighborhoods, targeted and overbroad voter roll purges, purported allegations of differential treatment on the basis of race, police presence at polling sites, and the widespread dissemination of false information. All of this contributed to the erosion of trust in our electoral systems.

In the years since the controversial 2000 presidential election, the pursuit for equal voting rights has progressed in some instances and eroded in others:

- In 2002, Congress enacted the *Help America Vote Act (HAVA)*,¹⁸ which established the Election Assistance Commission, standardized provisional balloting and funded elections equipment upgrades throughout the country. Unfortunately, *HAVA* was underfunded and equipment obsolescence is again threatening the integrity of elections.¹⁹
- In 2006, the *Voting Rights Act* was reauthorized²⁰ by wide margins in Congress and signed by President Bush. Nevertheless, in 2013 the Supreme Court struck down the formula that determined which jurisdictions must submit voting changes for preclearance, which effectively gutted Section 5, one of the *VRA*’s most vital provisions.²¹
- Since the 2008 presidential election, a national strategy²² to enact restrictive voting laws has resulted in the introduction of bills in over 40 state legislatures to make it more difficult to vote. To date, 21 states have enacted new voter ID and other more stringent voting laws, outpacing efforts to expand early voting and other efforts to make it easier to vote.²³

2000: VOTING CRISIS

Due to election administration and other irregularities, an estimated 4 to 6 million votes of the 100 million cast in the 2000 presidential election were not counted.²⁴ Considering that a swing of 537 votes cast in Florida would have potentially changed the outcome of the election,²⁵ it remains troubling that the election was roiled by unequal access to the polls. Targeted voting roll purges disproportionately removed the names of minority voters. Poor polling place resource apportionment caused long lines in many polling places in minority

communities. Inequitable allocation of voting technology and disability and language inaccessibility may have led to some voters being disenfranchised, as well.²⁶

Furthermore, in 2000 over 4.5 million citizens (over 2% of the country's voting-age population) were not allowed to vote because of former felon disenfranchisement laws, including as many as 620,000 Floridians.²⁷ Voter preference studies indicate that if former felons were properly enfranchised, the outcome of the election would have changed.²⁸

These affronts to equal voting rights, as illuminated by the 2000 voting crisis, ignited the civil rights advocacy community and inspired direct action. In 2001, the NAACP, the NAACP Legal Defense Fund, the Lawyers' Committee for Civil Rights Under Law, People For the American Way Foundation, the Advancement Project, the ACLU, and the Miami law firm of Williams & Associates joined forces to file *NAACP v. Harris* against the State of Florida and seven Florida counties responsible for widespread disenfranchisement of minority voters.²⁹ The case was eventually settled by way of an agreement to prevent fewer erroneous voter roll purges, enhance statewide uniformity in election procedures, provide provisional balloting, increase poll worker training and voter registration opportunities at state agencies, and improve DMV coordination.³⁰

Following the 2000 voting crisis, the civil rights advocacy community made a paradigm shift and not only redoubled efforts to monitor elections and document improprieties, but also created new coordinated strategic alliances. Chief among these efforts is Election Protection, launched in January of 2001, a nonpartisan initiative that established a multilingual hotline, website, and field program to inform voters and provide an outlet to report issues of voter suppression.³¹ This coalition has operated since its inception and continues to be a leader in addressing national, state, and local election protection needs.

2002: PASSAGE OF THE *HELP AMERICA VOTE ACT*

Decentralized election management practices vary dramatically among states and counties, suppressing many votes due to inconsistent and underfunded administration of elections. The *Help America Vote Act (HAVA)*³² – and the accompanying establishment of the U.S. Election Assistance Commission – was intended to streamline and improve broken election administration processes.

The development of *HAVA* was influenced by the report of the bipartisan National Commission on Federal Election Reform,³³ which recommended:

- Federal funding for improved election equipment and technology;
- Creation of statewide standardized computerized voter registration lists;
- Access to provisional ballots by anyone claiming to be qualified to vote;
- Improved overseas and military balloting procedures;

- Restoration of the voting rights of former felons who have completed their sentences; and
- Creation of the Election Assistance Commission to establish national election procedure standards.

Many of these recommendations were included in *HAVA*, as enacted. Along with initial federal funding for election technology upgrades, *HAVA* requires voting machines have audit capabilities, permit voters an opportunity to confirm their choices, and have multilingual options. *HAVA* also mandated statewide voter registration databases, ID requirements for certain first-time voters, and established the Election Assistance Commission. Finally, *HAVA* requires provisional balloting for any voter whose name does not appear on the roll or first-time voters who do not have proper ID's.³⁴ Unfortunately, *HAVA* did not tackle former felon disenfranchisement nor racial discriminatory election practices.

Today, *HAVA* is suffering from two major stumbling blocks:

- **TECHNOLOGY DEFICIENCIES:** Following the enactment of *HAVA*, between 2002 and 2004 Congress allocated more than \$3 billion for thousands of local jurisdictions to upgrade election technology. A decade later, this technology is becoming obsolete, and many jurisdictions are unwilling or unable to invest local dollars on technical upgrades.³⁵ In order to maintain the viability of the technology upon which elections rely, Congress should commit recurring funds to technical upgrades.
- **FAILURE OF THE ELECTION ASSISTANCE COMMISSION:** The Commission, which is primarily advisory, has suffered from a lack of proper funding, an unclear mandate, and an extended inability to achieve a quorum.³⁶ Accordingly, its role has been limited primarily to voting machine accreditation and the creation of “best practices” advisory materials.

2008: *CRAWFORD V. MARION COUNTY BOARD OF ELECTIONS*

In 2005, Indiana enacted a voter ID law requiring photo identification for anyone casting a ballot in person.³⁷ The law was challenged in federal court on the basis that it was unnecessary to prevent non-existent voter fraud and would arbitrarily disenfranchise voters who lack the required ID. In a 6-3 decision, the Supreme Court affirmed the law, opening the floodgates for the explosion of voter ID laws nationwide.

2008: ELECTION OF BARACK OBAMA AS PRESIDENT OF THE UNITED STATES

Fears of voter suppression reached a fever pitch in 2008 when Barack Obama was the first African American to achieve a major party nomination for president. Although total turnout in 2008 was about the same as the previous presidential election, the composition of the electorate shifted dramatically.³⁸ Notwithstanding efforts to suppress the vote, two million more African Americans, two million more Latinos, and 600,000 more Asians voted when compared to 2004; while non-Hispanic white voters turned out at roughly their same previous levels.³⁹ Many proclaimed that President Obama's election was the pinnacle of success of the *Voting Rights Act*, while others went further asserting that America had entered a "post-racial" era. This dramatic shift in voting patterns engendered a concerted effort to further suppress the vote in order to prevent future expansive voting participation by minority groups.

2010: MID-TERMS ELECTIONS AND THE MASSIVE RISE OF VOTER SUPPRESSION

Republican gains in the 2010 midterm election inspired a wave of new restrictive laws and voter suppression tactics, intended to limit the expansive and diverse electorate that participated in the 2008 presidential election.⁴⁰ The effort was aided by model legislation developed by the American Legislative Exchange Council (ALEC), which many state legislators introduced verbatim in nearly 40 states.⁴¹

DECEPTIVE PRACTICES & VOTER INTIMIDATION

The deceptive dissemination of false or misleading information about elections and the voting process suppresses voter participation, particularly among racial and language minorities.⁴² Abject falsities about the time and place of elections and penalties associated with voting have been spread via fliers, robocalls, text messages, and – most recently⁴³ – the innovative use of e-mail and social media.⁴⁴ Examples include:⁴⁵

- Ominous announcements by private groups (such as True the Vote and others) of their intentions to conduct voter challenge programs in predominantly African American and Latino polling sites. In South Dakota, these challenges were threatened for Indian Country polling sites;
- Robocalls purporting to be placed from a minority-preferred candidate's campaign prior to the polls closing indicating that the election was won and no further voter participation was necessary;
- Flyers distributed at predominately African American polling places indicating that straight-ticket voting would not count for a minority-preferred candidate;

- Emails sent to students from a supposed university official indicating a change of the date of Election Day;
- A letter in Spanish from a purported immigration organization suggesting that immigrants would be arrested if they voted; and,
- Flyers asserting that voters would be arrested at the polls or lose custody of their children if they had not paid their traffic tickets, child support or utility bills.

ONEROUS VOTER ID LAWS

In 2000, voter ID requirements were present in 14 states.⁴⁶ By 2014, 32 states had enacted voter ID laws.⁴⁷ States with the strictest requirements of government issued photo ID's, which can cost between \$15.00 and \$60.00,⁴⁸ have effectively implemented a fee prerequisite in order to vote, which is tantamount to a poll tax disproportionately affecting voters with limited means.⁴⁹ Furthermore, many voters who live in states that offer “free” voter ID's still pay fees to vote, such as the costs of purchasing required birth, marriage, naturalization, and other certificates, along with the costs of travel expenses to the departments of vital records and motor vehicles.⁵⁰

CORRECT PRECINCT LAWS

During the 2000 presidential election, many jurisdictions manipulated arcane requirements that ballots be cast in the “correct precinct” by:

- Adjusting precinct boundaries and failing to properly inform voters of precinct boundary changes.
- Turning away voters who attempted to vote at the wrong precinct or not counting ballots cast at the wrong precinct.⁵¹

HAVA attempted to rectify this issue by requiring that election officials offer provisional ballots to voters not listed on the official voter roll. Once voter eligibility is later confirmed, the ballot is to be counted.⁵² Unfortunately, due to non-uniform standards, some jurisdictions have required that provisional ballots be cast in the correct precinct in order to be counted, defeating the purpose of permitting the voter to cast a provisional ballot.⁵³ Uniform standards should be established to ensure that all eligible voters who cast ballots within a jurisdiction have their votes counted to the greatest extent possible.

EARLY VOTING RESTRICTIONS

Early voting – or “no excuse” absentee voting – is a popular option for voters who cannot conveniently cast ballots in person on Election Day, a working day for most Americans.⁵⁴ However, since the 2010 midterm elections, many state legislatures have included restrictions on early voting in the spate of new initiatives to suppress the vote.⁵⁵

OHIO: In 2014, the Ohio legislature eliminated a weeklong period where voters were permitted to register and vote early, established after major complaints of long lines at polling places.⁵⁶ The Ohio Secretary of State also eliminated Sunday early voting, which was popular among many African American voters who organized themselves to vote after church services.⁵⁷ In response, voting rights advocates filed a lawsuit, which was eventually settled by partially – but not completely – restoring some elements of early voting.⁵⁸

WISCONSIN: The Wisconsin legislature also sought to limit early voting in early 2014 by passing a bill eliminating weekend early voting and limiting weekday early voting to 45 hours.⁵⁹ Governor Scott Walker vetoed the portion of the bill capping early voting hours but let stand the weekend limitations.⁶⁰

NORTH CAROLINA: The North Carolina legislature’s effort to decrease early voting from 17 to 10 days – as part of a comprehensive package to make it more difficult to vote across the board – was upheld by the U.S. Supreme Court in October 2014.⁶¹ Nevertheless, since most minority voters participating in previous elections availed themselves of early voting, restrictions on early voting as well as other similar new limitations on ballot access are the subject of a federal civil rights litigation currently in progress.⁶²

REGISTRATION RESTRICTIONS

Same day voter registration and voter registration drives are also targets of recent legislation to suppress the vote.⁶³

TERMINATION OF SAME DAY REGISTRATION IN NORTH CAROLINA:

Although 14 states plus the District of Columbia currently permit same day voter registration,⁶⁴ this convenience was eliminated by the North Carolina legislature in 2013. By some estimates, North Carolina’s elimination of same day registration disenfranchised approximately 11,000 voters during the 2014 midterm elections.⁶⁵

VOTER REGISTRATION DRIVE RESTRICTIONS IN FLORIDA: In 2011 and 2012 alone, bills intending to restrict voter registration drives were introduced in eight state legislatures.⁶⁶ A bill enacted in Florida required organizations conducting voter registration drives to turn forms in within 48 hours of completion or otherwise face stiff penalties.⁶⁷ A *New York Times* analysis estimated that after the law took effect, 81,471 fewer Floridians registered to vote when compared to the same period before the previous presidential election.⁶⁸ In response, voting rights advocacy organizations filed suit and, after a federal judge issued an injunction, the parties eventually settled the dispute and the restrictions were lifted.⁶⁹

RESTRICTIONS ON STUDENT VOTING

In recent years, many states have subjected students desiring to vote in the jurisdiction where they attend school to enhanced proof of residency and ID requirements.⁷⁰

NEW HAMPSHIRE: In 2012, the New Hampshire legislature enacted (over the Governor's veto) a bill requiring students to separately declare permanent residency in order to register to vote, which would implicate an array of other unrelated legal responsibilities.⁷¹ Voting rights advocates successfully challenged this initiative in state court.

NORTH CAROLINA, TENNESSEE, TEXAS, AND PENNSYLVANIA: The list of acceptable ID's under North Carolina's onerous 2013 voter ID bill did not include student ID's.⁷² Similarly, Tennessee, Texas and Pennsylvania don't recognize student ID's for the purposes of voting, although – in the case of Tennessee and Texas – a gun permit, but not a student ID, is acceptable.⁷³

OHIO: In early 2015, the Ohio legislature enacted a provision attached to a transportation bill requiring that students who register to vote also register their vehicles and obtain in-state driver's license or otherwise face potential misdemeanor charges.⁷⁴ Governor John Kasich eventually vetoed this provision which was estimated to impact 110,000 students, and under which compliance, could cost up to \$75.00.⁷⁵

PURGING

Although targeted purging of voter rolls was central to the 2000 presidential election controversy, this voter suppression tactic has not been abandoned. In 2012, Florida attempted to purge its rolls of voters deemed “non-citizens,” resulting in the inadvertent purging of naturalized citizens.⁷⁶ Similar purges are suspected to be underway in 27 states,

and – in the case of Virginia, Georgia, and Washington – purge lists appear to be overpopulated with surnames primarily associated with minority groups.⁷⁷

VOTER CAGING

Voter caging is the mailing of non-forwardable correspondence to the addresses of targeted voters indicated on voter rolls and then using any returned envelopes as evidence to challenge voter registrations *en masse* on residency grounds.⁷⁸ There is also evidence that real estate foreclosure lists have been used for the same purpose.⁷⁹ Targeting minority voters for caging and, effectively discriminating against them on the basis of race or language in the context of voting, is a violation of the *VR*A.⁸⁰

ADMINISTRATIVE IRREGULARITIES

- **UNTRAINED AND MISINFORMED POLL WORKERS:** Although poll workers are crucially at the front lines of democracy, most poll workers received no more than 2.5 hours of training prior to Election Day.⁸¹ In many jurisdictions, an aging cadre of poll workers, low pay, absenteeism, and unfamiliarity with modern technology has marred the proper administration of elections.⁸² More jurisdictions should adopt the objective best training practices featured in the Election Assistance Commission publication “Successful Practices for Poll Worker Recruitment, Training and Retention.”⁸³ Other recommendations include concerted efforts to recruit younger poll workers (including students) as well as poll workers with private sector experience and creating incentives for employers to release employees in order to serve as poll workers.⁸⁴
- **MISPLACED POLLING PLACES:** In many jurisdictions, voters residing in predominantly minority precincts experience much longer wait times to vote.⁸⁵ Recommended best practices to shorten wait times include more accurate estimations of the number of registered voters per precinct and the share that will turn out, pretesting the length of time it takes an average voter to vote, and expanding centralized early voting centers.⁸⁶
- **FAILURE TO PROVIDE AFFIDAVITS:** In some states where voter photo ID is requested or required, voters are allowed to file an affidavit attesting to their identity; yet, poorly trained poll workers consistently fail to provide these affidavits and, instead, make voters file provisional ballots, tell voters they cannot vote, or tell voters that their ballots will not be counted.

CITIZENS UNITED

The Supreme Court's decision in *Citizens United v. Federal Election Commission*⁸⁷ eliminated one of the few remaining protections against the unadulterated influence of money in political campaigns. This opinion granted corporations and unions the ability to spend unlimited sums of money to directly support or oppose specific candidates for office.⁸⁸ Unbalancing the campaign finance playing field is antithetical to the principle of "one person, one vote," and could potentially limit the ability of minority and low income voters to elect their own preferred candidates.⁸⁹

SHELBY COUNTY V. HOLDER

In June 2013, the Supreme Court struck down the formula used to determine which states and political subdivisions were required to submit voting changes for preclearance pursuant to Section 4 of the *Voting Rights Act (VRA)*. This 5-4 opinion⁹⁰ by Chief Justice John Roberts eviscerated a vital check and deterrent against voter suppression, which most often occurs at minute levels such as a locality's determination of neighborhood precinct boundaries.

While preclearance as a whole was not struck down, the *Shelby County v. Holder* decision effectively released the following political subdivisions from the requirement to submit voting changes for federal preclearance:

- The entire state and all political subdivisions within Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia; and,
- Certain counties or townships in California (4 counties), Florida (5 counties), Michigan (2 townships), New York (5 counties), North Carolina (40 counties), and South Dakota (2 counties).⁹¹

The *VRA* and subsequent congressional reauthorizations took into consideration the history of voter tests or other similar discriminatory prerequisites to voting and low voter turnout as evidence of the need for preclearance of voting changes. Jurisdictions subject to preclearance were permitted to terminate or "bailout" preclearance requirements upon establishing a ten-year history of no voter tests or similar prerequisites, no voting changes blocked by the preclearance process, no pending voting discrimination lawsuits, and other similar indicia of progress on the voting rights front.⁹²

Nevertheless, the Supreme Court determined that an entirely new formula was necessary, and – in its decision – indicated that the onus is on Congress to establish a different formula to determine which jurisdictions should be required to submit voting changes for preclearance. In the absence of congressional action in an unprecedented period of political

gridlock, jurisdictions with the most insidious history of racial and language discrimination – and where many vestiges remain today – currently have the unadulterated power to implement voting changes with no consideration of voting rights impacts.

The outcome of *Shelby County v. Holder* opened the floodgates of the burgeoning national voter suppression effort underway since roughly 2010. Since *Shelby County v. Holder*:

- Texas and Mississippi implemented strict voter ID laws that were previously blocked by the preclearance process;
- Alabama implemented a strict voter ID law passed prior to *Shelby* but never submitted for preclearance; and
- North Carolina enacted a strict voter ID law that would have likely not survived preclearance.⁹³

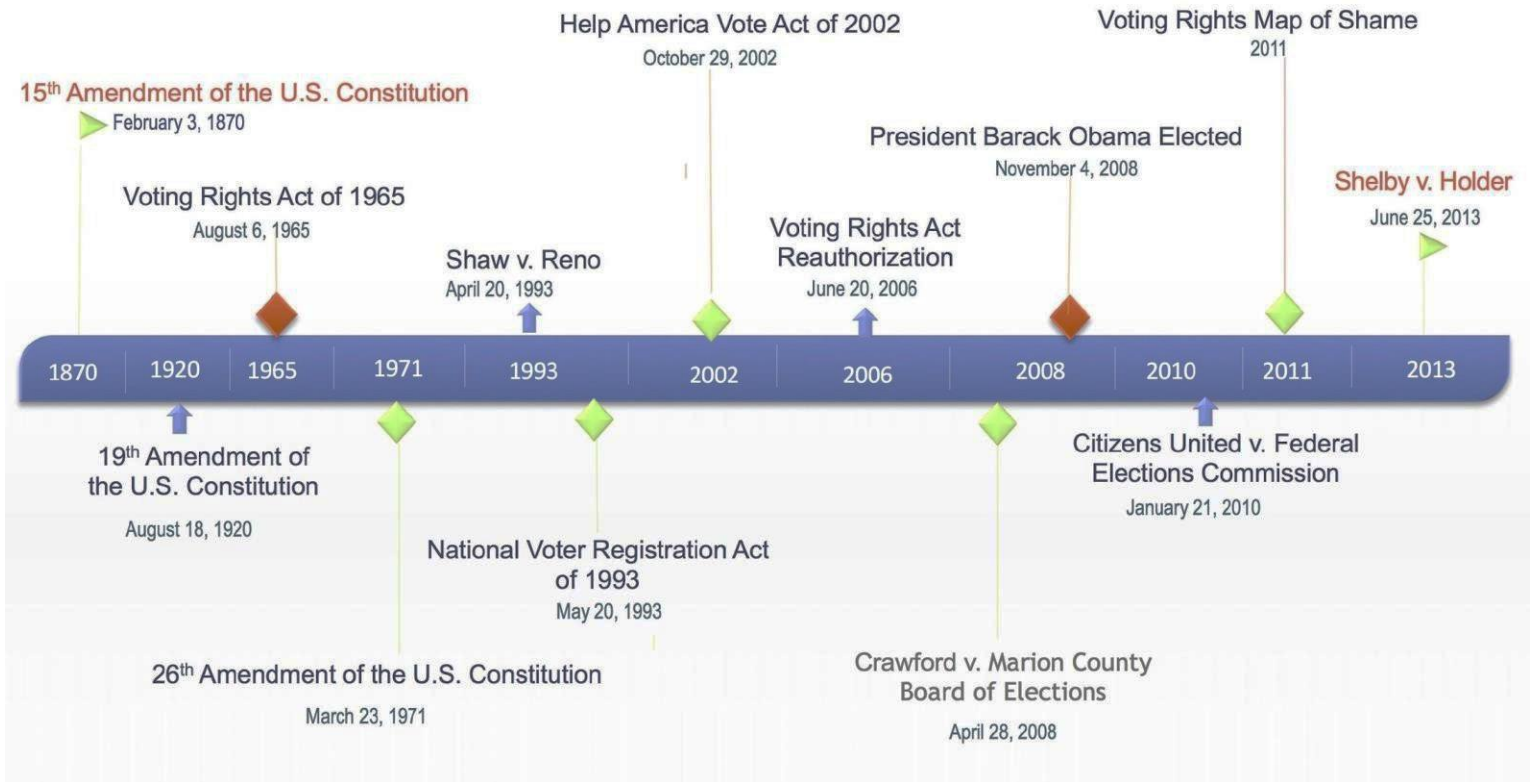
Furthermore, after *Shelby* some jurisdictions revived redistricting plans previously blocked by the preclearance process. In Galveston County, Texas, for example, a proposed district map similar to one previously blocked by the Department of Justice has been resubmitted and is currently subject to federal litigation.⁹⁴

It is incumbent upon Congress to revive the formula used to determine which jurisdictions should be subject to preclearance. From elections for local school boards to Congress, continued delay risks systemic disenfranchisement in the parts of the country where equal protection is most under attack.

From the most controversial presidential election in history to the gutting of the *VRA*, the 21st century has been as challenging on the voting rights front as any other period in American history. Unwavering vigilance will be required to convert setbacks into opportunities in order to continually expand access to the voting franchise to all citizens regardless of race, language, or income level.

TIMELINE: A CONTRAST OF DECADES FOR VOTING RIGHTS

A Contrast of Decades: 20th Century to the 21st Century



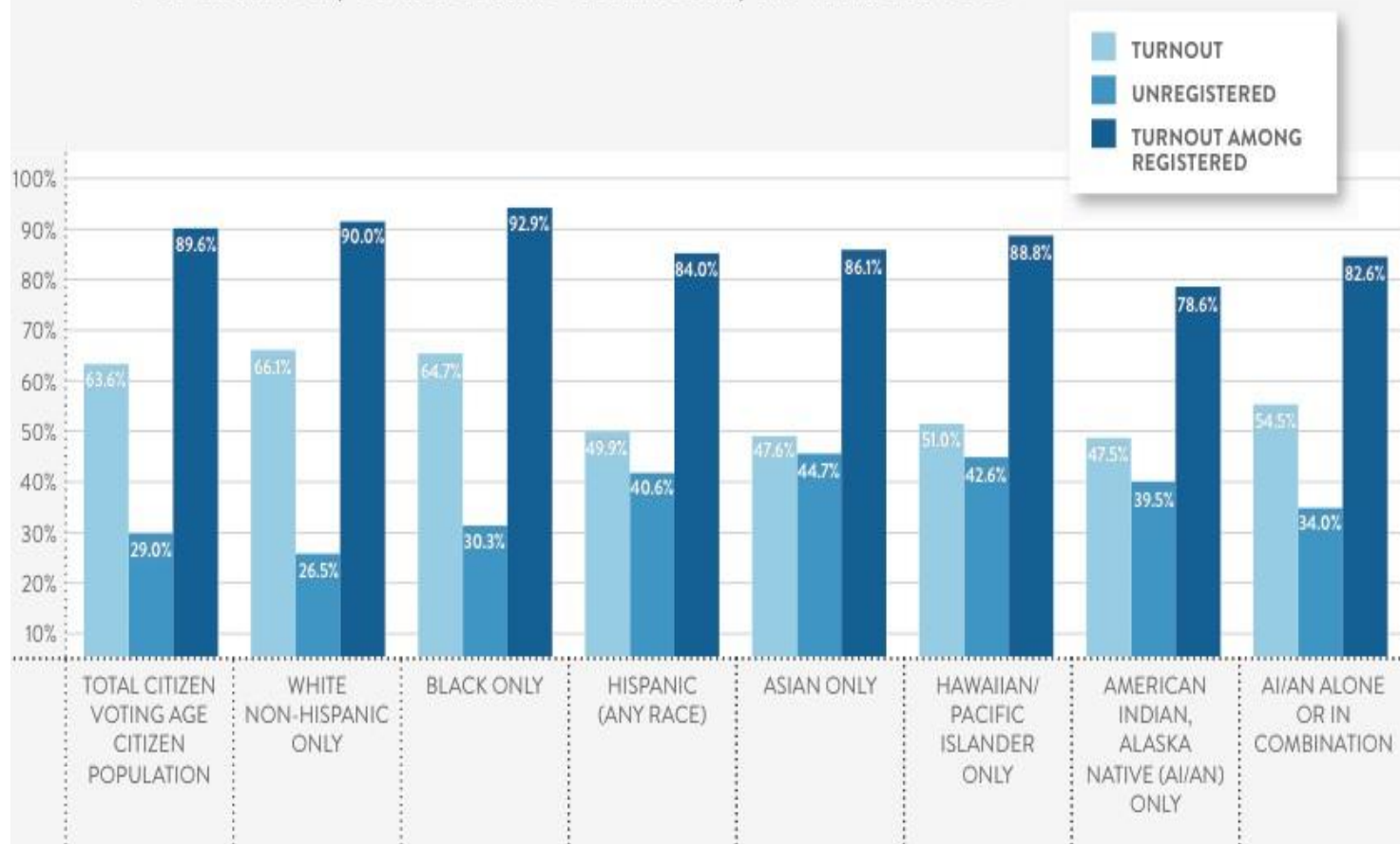
- **1870- 15TH AMENDMENT OF THE UNITED STATES CONSTITUTION**
 - The 15th Amendment, ratified in 1870, ensures the ability to participate in the electoral process will not be infringed upon based on a citizen's race.
- **1915- THE REPEAL OF THE “GRANDFATHER CLAUSE” AND SIMILAR PROVISIONS**
 - In 1915 the National Association for the Advancement of Colored People (“NAACP”) and the American Civil Liberty Union (“ACLU”) convinced the U.S. Supreme Court to overturn the grandfather clause, a provision that stated one could only vote if their grandfather possessed the ability to vote.
- **1920- 19TH AMENDMENT OF THE UNITED STATES CONSTITUTION**
 - The 19th Amendment, ratified in 1920, safeguards the ability to participate in the electoral process free from encumbrances based on gender.

- **1924- THE *INDIAN CITIZEN ACT* OF 1924**
 - Enacted to fully enfranchise Native Americans. While the act was subsequently repealed by the *Nationality Act* of 1940, 8 U.S. Code § 1401(b), it was done only to consolidate all laws authorizing American citizenship under one statute.
- **1964- 24TH AMENDMENT OF THE UNITED STATES CONSTITUTION**
 - The 24th Amendment, ratified in 1964, prohibits the imposition of poll taxes in state and federal elections.
- **1965- *Voting Rights Act* (“*VRA*”)**
 - The *VRA* removed race-based restrictions on voting after an era of poll taxes, literacy tests, grandfather clauses, and destructive district gerrymandering were used to eliminate the African American from ever being able to fully participate in voting.
- **1971- 26TH AMENDMENT OF THE UNITED STATES CONSTITUTION**
 - The 26th Amendment, ratified in 1971, extended the right to vote to citizens at the age of eighteen years and older, whereas before it only extended to citizens twenty-one years and older.
- **1975- *VOTING RIGHTS ACT* AMENDMENTS**
 - *VRA* amendment to include bilingual ballots for language minority groups, primarily for Hispanics and Asian Americans. This amendment entitled these groups to both bilingual ballots and voter registration in jurisdictions where they constituted 5 percent or more of the voting-age population.
- **1993- *NATIONAL VOTER REGISTRATION ACT* (*NVRA*)**
 - The *NVRA*, also known as the Motor Voter Act, requires states to provide voter registration for federal elections concurrently with driver’s license applications, at state facilities such as the DMV, for persons with disabilities, and by mail.
- **1993- *SHAW V. RENO***
 - North Carolina, in an effort to comply with Section 5 of the *Voting Rights Act* of 1965, submitted to the U.S. Attorney General a congressional reapportionment plan with one majority black district. This plan was rejected because a second district could have been created to empower African Americans to have more voting strength, which garnered objection by other North Carolina residents who filed suit. The U.S. Supreme Court ruled in favor of the objectors to such a racially based scheme and the case was remanded to the District court.

- **2002- *HELP AMERICA VOTE ACT (HAVA)***
 - *HAVA* established the Election Assistance Commission, standardized provision balloting, and funded elections equipment upgrades throughout the country.
- **2008- ELECTION OF PRESIDENT BARACK OBAMA**
 - Fears of voter suppression reached a fever pitch in 2008, when Barack Obama was the first African American to achieve a major party nomination for president.
- **2008- *CRAWFORD V. MARION COUNTY BOARD OF EDUCATION***
 - In 2005, Indiana enacted a voter ID law requiring photo identification for anyone casting a ballot in person. The law was challenged in federal court on the basis that it was unnecessary to prevent non-existent voter fraud. The Supreme Court affirmed the law as constitutional, leading the charge for more states to follow.
- **2010- *CITIZENS UNITED V. FEDERAL ELECTIONS COMMISSION***
 - This case granted corporations and unions the ability to spend unlimited sums of money to directly support or oppose specific candidates for office.
- **2010- MIDTERM ELECTIONS AND VOTER SUPPRESSION**
 - Republican gains in the 2010 midterm election inspired a wave of new restrictive laws and voter suppression tactics, intended to limit the expansive and diverse electorate that participated in the 2008 presidential election.
- **2011- VOTING RIGHTS MAP OF SHAME**
 - Created by Ms. Barbara Arnwine, this map is an annual highlight of restrictive voter identification and other voter suppression legislation by state.
- **2013- *SHELBY V. HOLDER***
 - In June, the Supreme Court struck down the formula used to determine which states and political subdivisions were required to submit voting changes for preclearance pursuant to Section 4 of the *VRA*.

NATIONAL VOTING REGISTRATION AND VOTING TRENDS

Fig. 1 | ELECTION TURNOUT & REGISTRATION RATE AMONG CITIZEN VOTING-AGE POPULATION, BY RACE AND ETHNICITY, NOVEMBER 2008



SOURCE: U.S. Census Bureau, DataFerrett, Current Population Survey, Voting and Registration, November 2008. Analysis by Dēmos.

Dēmos

SECTION 5: SPOTLIGHT ON NATIVE AMERICAN VOTING RIGHTS CHALLENGES

OVERVIEW

The political power of American Indians and Alaskan Natives in the United States has yet to be fully realized due to many unlawful barriers to the right to vote. Given the customary practice to ignore the voting rights challenges facing this population, and the tremendous increasing barriers to the Native American vote, this section is designed to highlight the special obstacles confronting voting rights and political participation for Native Americans.

CITIZENSHIP AND VOTING RIGHTS

In 2015, there were 567 federally recognized Native tribal nations in the United States. There were 5.4 million Americans or 2% of the total population who identified as American Indian/Alaskan Native including more than one race. Of that number, 2.9 million or 0.9% identified as American Indian/Alaskan Native alone. There had been significant growth in the overall Native American population in the United States. The states that had the largest American Indian/Native American and combination of race populations included California, Oklahoma, Arizona, Texas, New York, New Mexico, Washington, North Carolina, Florida, and Michigan. Alaska, and South Dakota were also among the top ten states with the largest Native American populations alone. Over 31% of American Indians/Alaskan Natives lived on American Indian/Native American lands (reservations, trust lands and villages) with the remaining 69% having resided off-reservation.

In the 3 states for which special reports were prepared and attached to this national report, there are federally recognized tribal nations as follows: New Mexico has 23 tribal nations; Michigan has 12 tribal nations; and, Mississippi has 1 tribal nation. Even in the state of Louisiana, for which a special report was prepared specifically on New Orleans, there are 4 recognized tribal nations. Native languages are commonly spoken in New Mexico and Mississippi.

THE UNIQUE CHALLENGES OF SOVEREIGNTY

The fight for Native American voting rights cannot be divorced from the overall struggle by Native Americans in the United States for sovereignty and against discrimination. The sordid history of genocide and land theft underlies the Native American interaction with Europeans and, then, the government of the United States. From the inception of the United States, the legal status of Native Americans has been constantly redefined *vis-a-vis* the

federal government and the states. Consistent areas of contention have been those of sovereignty, culture and language, natural resource rights, federal trust responsibility, broken treaties, citizenship and political participation. In voting rights, many states have been persistently hostile to according the right to vote to Native Americans. Even after federal legislation to recognize this right to vote had been enacted, the states have nevertheless erected barriers to Native American voting including the failure to comply with the specific provisions of the Voting Rights Act of 1965. The historic and on-going hostility to Native American voting rights has become exacerbated by the new voter suppression movement in the United States.

Federal failures and state hostility to the recognition and respect of the tribal sovereignty, especially the right of tribal self-government and self-determination, has been a major obstacle in the fight for American Indian and Alaskan Native voting equality and political participation in state elections. This long-standing conflict has left a bitter legacy resulting in many Native Americans feeling alienated from and distrustful of state government and the electoral process.

CITIZENSHIP AND ACCESS TO THE FRANCHISE

The fight for the vote for Native Americans has been an on-going and arduous uphill battle against hostility by federal, state and local governments and the imposition of numerous obstacles and barriers to deny this fundamental right.

The *Indian Citizenship Act* of 1924 granted citizenship to indigenous people in the United States who had not otherwise been afforded that right. However, not all Native Americans who were granted citizenship rights under the *1924 Act* enjoyed full citizenship and suffrage rights. By 1938, seven states continued to refuse to grant Native Americans voting rights. Discrepancies between federal and state control provided loopholes in the *Act's* enforcement. States justified discrimination based on state statutes and constitutions.

Three main arguments for Indian voting exclusion were: Indian exemption from real estate taxes; maintenance of tribal affiliation; and, the notion that Indians were under guardianship or lived on lands controlled by federal trusteeship. By 1947, all states with large Indian populations, except Arizona and New Mexico, had extended voting rights to Native Americans who qualified under the *1924 Act*. Not until 1948, over two decades after the passage of the *1924 Act*, did these states withdraw their prohibition on Indian voting because of a judicial decision. Yet, in some states it wasn't until the 1960's that American Indians became able to vote.

The *Voting Rights Act* of 1965, as amended in 1982 and 2006, has provided particular language minority access requirements in Sections 2034(f) and 208. However, too many of the states and local governments fail to comply with these provisions resulting in numerous lawsuits and continued barriers for too many Indian voters. Nor

was this *Act* effective in addressing many of the special barriers which confront American Indians and Alaskan Natives, particularly those related to tribal nations and Indian Lands (reservations, trust lands, and villages).

The story of hostility and resistance by election officials to the right of Native Americans to unfettered access to the franchise did not end in 1948 nor in the early 1960's. Indeed, it has taken repeated litigation in many states to gain any progress in providing this fundamental right.

CHALLENGES AT THE POLLS: ELECTION OFFICIALS APATHY AND VOTER SUPPRESSION

Foremost among the barriers to Native American voting has been the poor location of polling sites outside of Indian Lands. The impermanence of polling site locations has been extremely problematic for Native American voters, especially during Early Voting, because of the rural nature of the communities, the long distance to drive to county polling sites, and the lack of reliable information about the location of polling sites. Sometimes Native Americans have to drive hours back and forth from home to a polling site. When there are elections on the same day for both tribal, state, and local elections, the required driving between two different polling sites is untenable. State and local officials have failed to coordinate with tribal leaders and tribal election officials on the scheduling of elections and the placement of polling sites. Some county officials insist on Indian voters using mail-in ballots; however, this is not favored by many of these voters. Even when Native American voters have sought absentee ballots, the state and local jurisdictions have failed to provide these in a timely manner. Nor have mobile units proven a viable alternative to a permanent polling site location. And the cost imposed on tribal nations for providing mobile units which are ADA accessible has been unfairly expensive.

As the new wave of voter suppression has swept the nation, Native American voters have been heavily impacted. Presently, 32 states have enacted voter identification laws, including harsh voter photo ID laws. Fourteen of these states have substantial Native American populations including: Texas, Mississippi, Michigan, Florida, South Dakota, and Louisiana with photo voter ID laws; and, Wyoming, Colorado, Utah, Arizona, Washington, Oklahoma, Alaska, and Hawaii with non-photo voter ID laws. Critically, in 21 of the states with either photo ID or non-photo ID laws, only a provisional ballot can be cast if the voter fails to present a valid identification. This provisional ballot may not be counted if the required identification is not presented within a specified period of time where allowed. Many of these state governments won't recognize tribal ID's. Photo identification is a very difficult barrier for low-income and rural communities.

Another assault of voter suppression impacting Native Americans has been the attempt by several states to impose onerous "proof of citizenship" laws. After several years of

litigation, a victory was achieved in *Arizona v. Inter-Tribal Council of Arizona, Inc.*, which held that Arizona, Kansas and other states could not impose “proof of citizenship” requirements on the federal voter registration form unless authorized by the Election Assistance Commission.

Native Americans voters have been subjected to targeted voter intimidation and harassment including threats that their automobiles may be repossessed by predatory automobile repossession companies if they drive off reservations to vote at county polling sites on Election Day.

Native American voters have been very adversely affected by the failure of many local jurisdictions to comply with the language minority accommodations requirements under the *Voting Rights Act*. There are 169 Native American languages with the five languages most commonly spoken being Navajo, Yupik by Alaska Natives, Sioux, Apache and Rio Grande Keresan. Three of these five languages are spoken by large Native populations in New Mexico. Two-thirds of homes where a Native language is spoken are located in New Mexico, Arizona and Alaska. Most of the Native American language speakers live on Indian Lands. Often Native Americans voters do not receive translated voter information materials in advance of elections. Many arrive at polling sites which do have the required translators for their languages. These Section 203 failures have necessitated special focus by the Department of Justice and the voting rights legal community.

THE CURRENT STATE OF FEDERAL PROTECTIONS

After the evisceration of Section 4 of the Voting Rights Act and the resulting impotence of Section 5 protections, the Native American community has been adversely impacted as county and local governments have become emboldened to ignore the needs of Indian voters. Any *Shelby* fix of the *VRA* must also include provisions to address the severe voting right challenges of Native American voters. As consent decrees have expired, federal observers have become sparse in monitoring elections, even though their presence is a great deterrent to county and local governmental discrimination against Native American voters.

However, although a *Native American Voting Rights Act* of 2015, which among other provisions prohibits states and local governments from eliminating the only polling place or voter registration site on an Indian reservation or otherwise diminishing access for voting on reservations, has been introduced in Congress, which is supported by the Department of Justice, there haven’t been any Congressional hearings or testimony to support such a bill. Paradoxically, there continue to be heightened efforts on or near reservations to keep Native Americans from registering to vote and to keep them from voting. Although there have been dozens of lawsuits filed against county voter registrars, county commissioners, and state officials over denying American Indians and Alaska Natives the right to vote,

there is an imperative for greater legal protections specific to the needs of these voters. The need for greater funding of investigations and legal interventions is required.

POLITICAL INFLUENCE AND ELECTORAL RESULTS

Unfortunately, the potential of the American Indian and Alaskan Native growing demographics are not reflected in the number of elected officials in the federal, state or local governments. Currently, no Native American serves in the U.S. Senate. There are only two Native Americans in the United States House of Representatives.

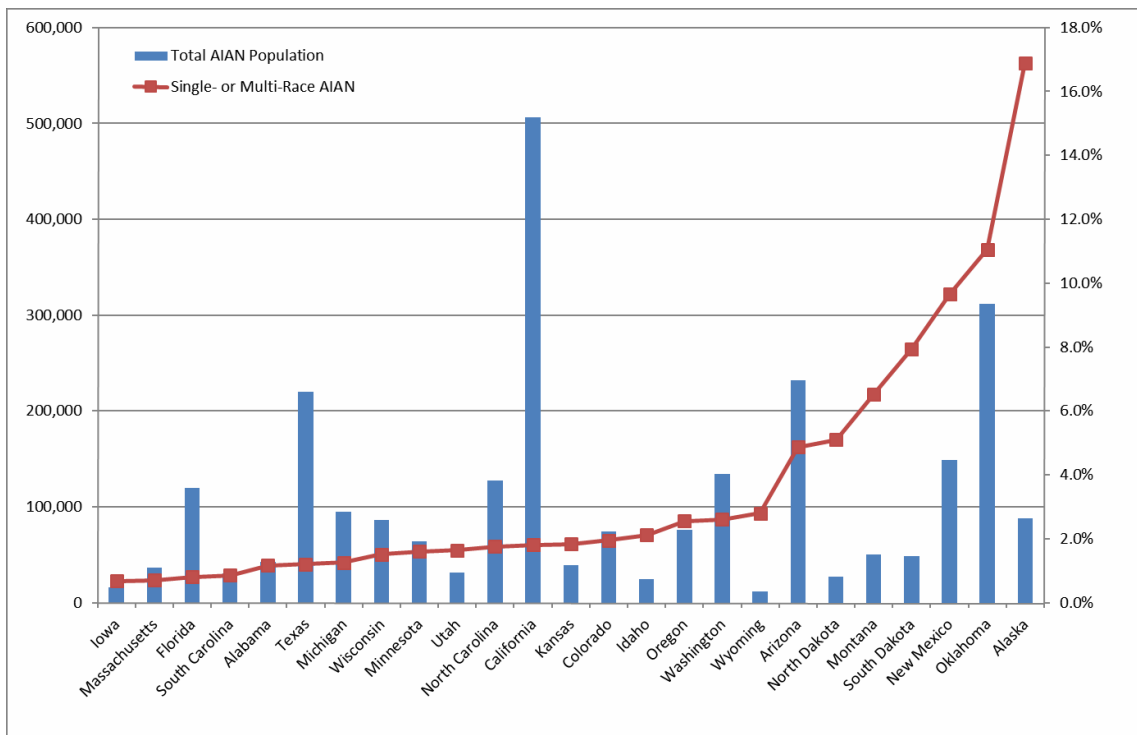
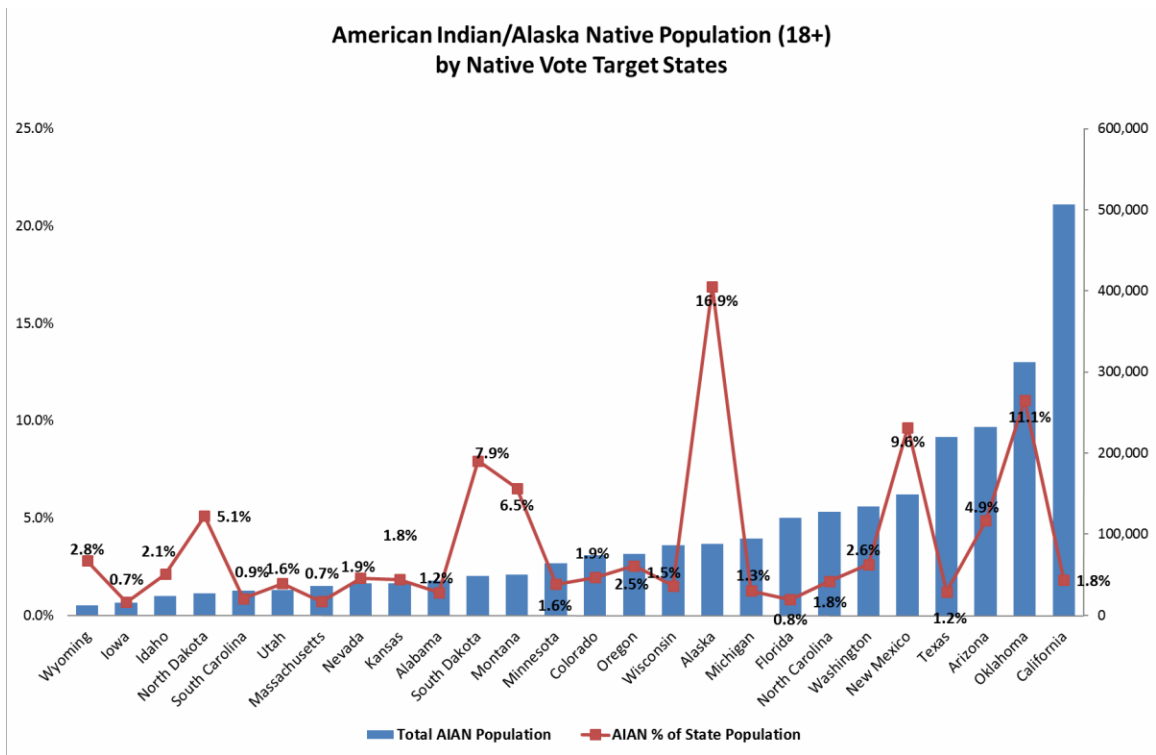
Nationwide, Native Americans are woefully underrepresented in state and local government, even where there are strong population numbers. Only two states have American Indian representation consistent with the population in the state: Montana and Oklahoma. The State of New Mexico, despite its large Native population, has never had a Native American elected to a statewide or Congressional office. There is only one active Native American federal judge, Diane Humetewa, who in 2014 became the first Native American woman ever appointed to the federal bench. Last November, Deborah Juarez was elected to the Seattle City Council, the first Native to ever be elected to that position. This calls for more robust civic engagement in Native communities on and off-reservation, including candidate recruitment and support, voter education and GOTV support.

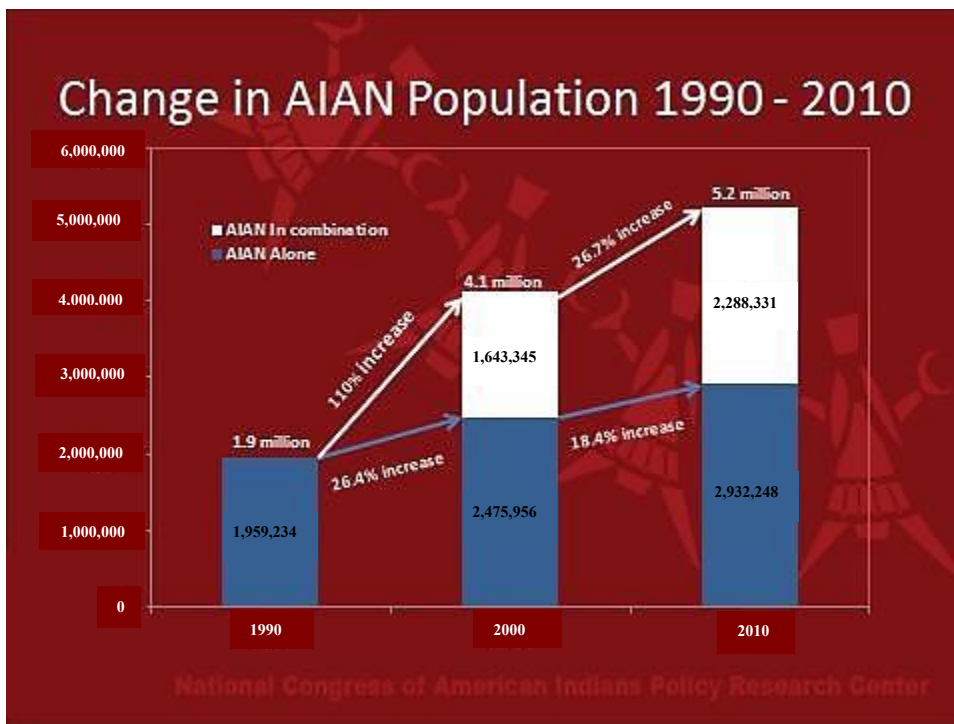
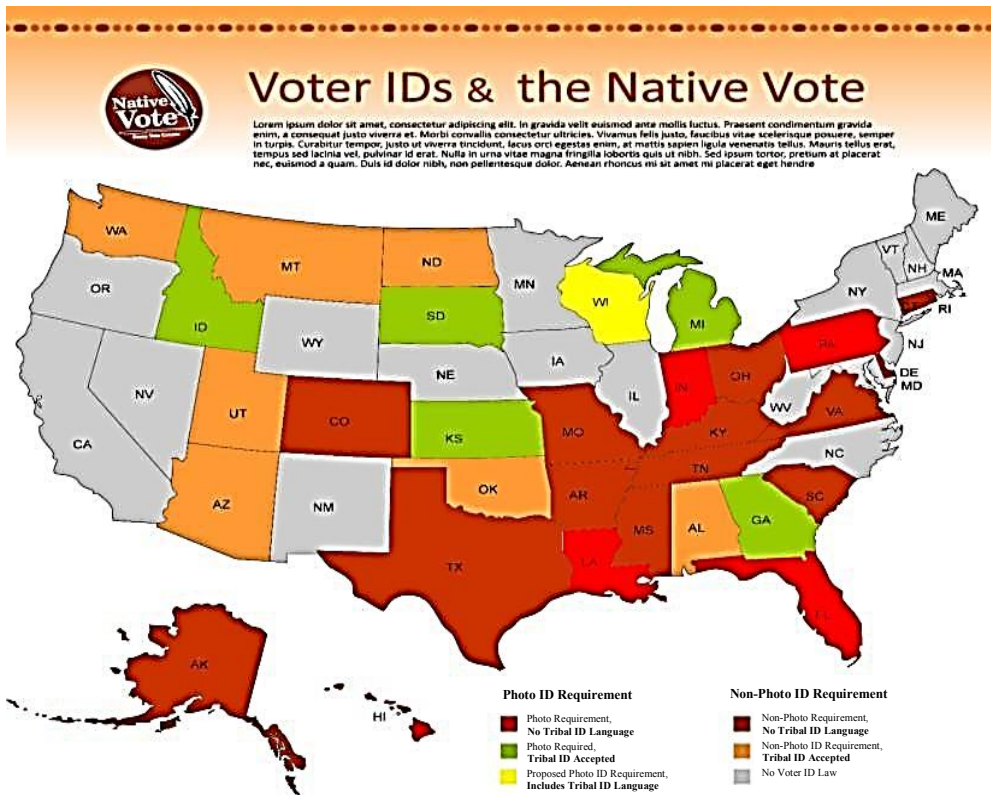
NATIONAL COORDINATION TO PROTECT THE RIGHT TO VOTE

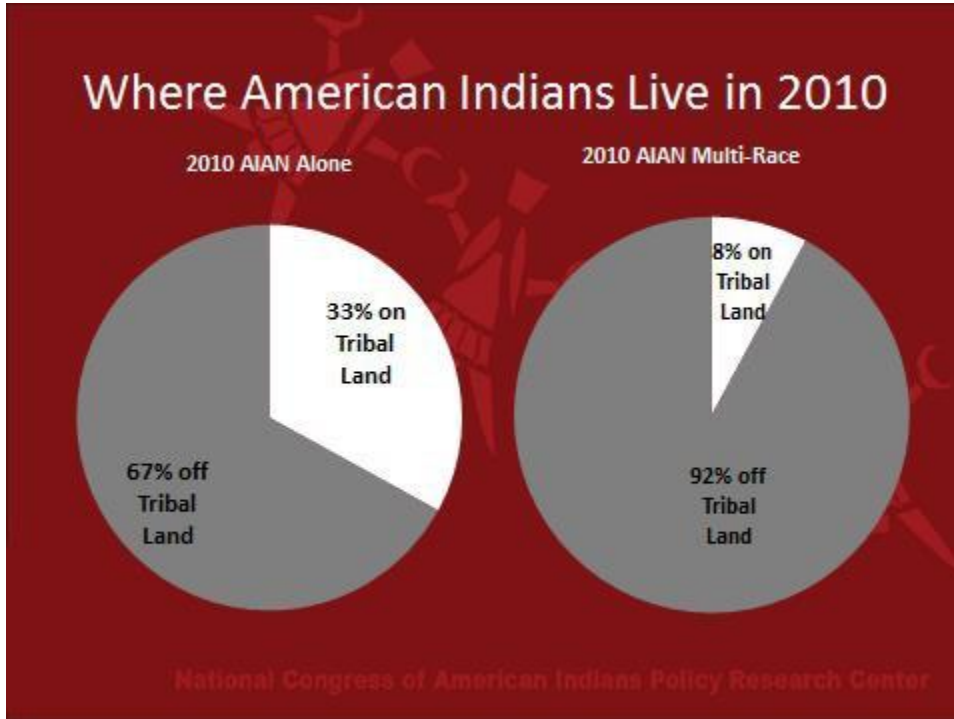
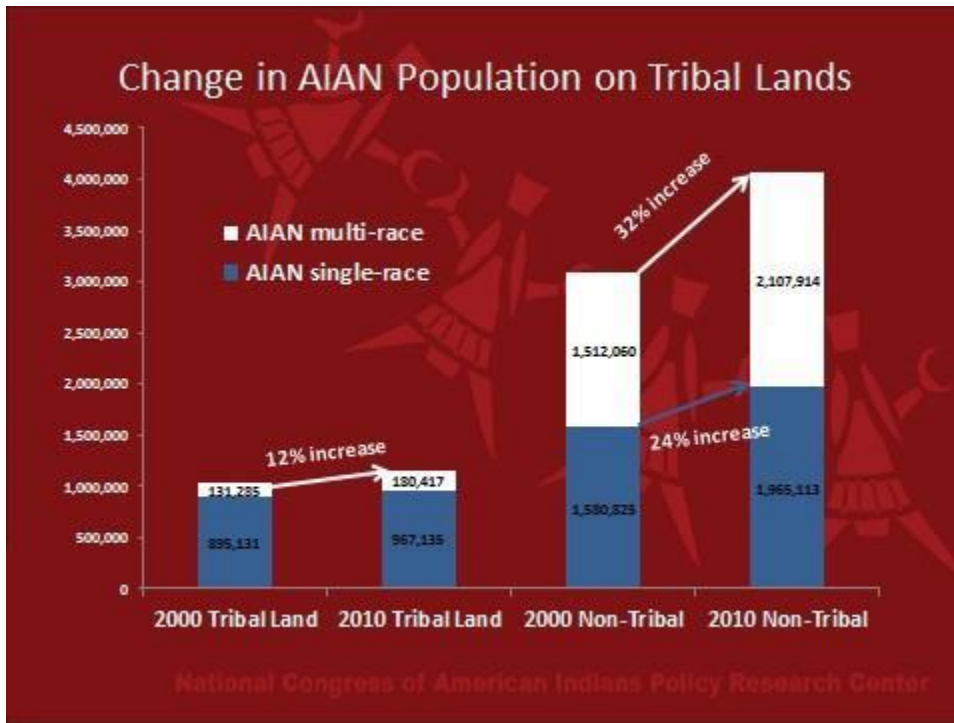
The Native American Voting Rights Coalition (“NAVRC”) is a collaborative partnership of Indian and civil rights organizations seeking to combat obstacles to the Native vote. Through targeted litigation, legislation, and education, the Coalition strives toward a civil society in which Native voters are fully and meaningfully engaged.

The National Congress of American Indians (“NCAI”) facilitates capacity building within the NAVRC by assisting in efforts to gauge the needs of Indian Country and accelerate the agenda and interests of Native voters. The capacity group works on public relations, expert witness cultivation, data collection on Natives holding local office, voter education, and litigation capacity. NCAI participates within the capacity-building group through the grassroots Native Vote effort, as well as using their reach to Indian Country to collect data on local officials.

It is of utmost importance that concerted support and programming be targeted by all funders to address, combat and eliminate these major barriers to Native American voting rights.







SECTION 6: NATIONAL LEGISLATIVE OVERVIEW 2011-2015

Voting is the foundation of democracy. Participation in the electoral process gives the citizen a voice and allows for that voice to matter. Although the U.S. Constitution protects the right to vote, its true security is in legislation that provides the framework for ensuring that the right to vote goes unimpeded by state actors.

This section is a snapshot of the legislative movement of state legislatures across the country over the past five years, demonstrating both the assault on and the efforts to protect access to the ballot.

2011

2011 brought one of the most significant assaults on the right to vote in decades. There was a coordinated effort to restrict access of the electorate for the upcoming 2012 election that put millions of Americans voters at risk of being disenfranchised.

The wave of new, restrictive legislation includes bills making voter registration drives extremely difficult and risky for volunteer groups, bills requiring voters to provide specific photo ID or citizenship documents that they may not have, bills curtailing early and absentee voting, bills making it hard for students and active-duty members of the military to register to vote locally, and more.⁹⁶

This year marked the onslaught of the restrictive voting rights trends we are still battling today. The plethora of restrictive legislation to disenfranchise included:

- **PHOTO ID REQUIREMENTS FOR VOTING**

- There were 34 states that introduced photo ID requirements for voting, including Alabama, Arkansas, Connecticut, Illinois, Maryland, Mississippi, Missouri, New Mexico, South Carolina, Texas, and Virginia.⁹⁷
- “According to the National Conference of State Legislatures (NCSL), at the beginning of 2011, 27 states already had non-photo voter ID laws going beyond the requirements of *HAVA*... An additional 20 states that did not have photo ID laws proposed such legislation this year”.⁹⁸
- These initial 27 states had permissive laws that allowed a citizen to have a number of different forms of identifications for voting purposes. This was very distinct from the new wave of photo identification laws that limit the acceptable types of identifications voters could use to verify themselves as registered, which made the burden on citizens more onerous.

- **PROOF OF CITIZENSHIP REQUIREMENTS FOR REGISTRATION OR VOTING**
 - At least 10 states—Alabama, Colorado, Kansas, Oregon, South Carolina, and Texas—introduced legislation requiring proof of citizenship to register or vote.⁹⁹
- **RESTRICTIONS ON VOTER REGISTRATION DRIVES**
 - At least six states—California, Florida, Illinois, Mississippi, North Carolina, and Texas— all introduced legislation to regulate voter registration drives and Florida and Texas succeeded as these laws were enacted in these states.¹⁰⁰
- **CUTTING DOWN EARLY VOTING PERIODS**
 - Nine states—Florida, Georgia, Maryland, Nevada, New Mexico, North Carolina, Ohio, Tennessee, and West Virginia— introduced bills to reduce their early voting periods this year. The bills in Florida, Georgia, Tennessee, Ohio, and West Virginia have been enacted.¹⁰¹
- **REDUCING VOTER REGISTRATION OPPORTUNITIES**
 - Three states saw the introduction of bills to eliminate Election Day registration.
 - North Carolina and Ohio introduced bills to eliminate same day registration during the early voting period.¹⁰²
- **DISENFRANCHISING PEOPLE WITH PAST FELONY CONVICTIONS**
 - Florida and Iowa reversed prior executive actions simplifying the process for citizens with past felony convictions to restore their voting rights, disenfranchising hundreds of thousands of voters.¹⁰³

2012

2012 had as many hard fought battles as the year before, but there was great pushback from the voting rights activist community. During 2011 and 2012 vetoes, referendums, court decisions, or the Department of Justice blocked or blunted restrictive measures in 14 states (Arizona, Florida, Maine, Michigan, Minnesota, Missouri, Montana, New Hampshire,

North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Wisconsin).¹⁰⁴ “Citizens rejected these laws at the polls, nearly a dozen courts overturned or weakened restrictive measures, and the Department of Justice (through the use of the *URA*) blocked others.”¹⁰⁵

- **PHOTO ID REQUIREMENTS FOR VOTING**

- About 34 states introduced laws requiring voters to show photo ID at the polls, while four more introduced laws requesting such ID to mimic this trend. “Photo ID bills were signed into law in eight states — Alabama, Kansas, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Wisconsin — and passed by referendum in Mississippi.”¹⁰⁶

- **PROOF OF CITIZENSHIP REQUIREMENTS FOR REGISTRATION OR VOTING**

- Seventeen states introduced legislation that required proof of citizenship, such as a birth certificate, to register or vote.¹⁰⁷

- **RESTRICTIONS ON VOTER REGISTRATION DRIVES**

- Sixteen states introduced bills to stop the popular Election Day and same-day voter registration, limit voter registration mobilization efforts, or reduce other registration opportunities.¹⁰⁸

- **CUTTING DOWN EARLY VOTING PERIODS**

- Nine states introduced bills to reduce their early voting periods, while four more states tried to reduce absentee voting drives. “Florida, Georgia, Ohio, Tennessee, and West Virginia succeeded in enacting bills reducing early voting. In Ohio, a court restored early voting to the weekend before the election.”¹⁰⁹

2013

Although 2013 had great promise to turn the tide on the dismantling of voting rights, the community suffered a great loss of its tool kit to combat restrictive laws. 2013 marked a major blow to the voting rights community as the U.S. Supreme Court ruled to strike down Section 4(b) of the *URA* in its *Shelby County v. Holder*¹¹⁰ decision, dismantling a key provision that enforced a formula for election administration by changing pre-clearance for states that are historically bad enfranchisement actors. Within mere hours of the Supreme Court ruling, Texas officials vowed to “begin enforcing a strict photo identification requirement for voters, which had been blocked by a federal court on the ground that it would

disproportionately affect Black and Hispanic voters. In Mississippi and Alabama, which had passed their own voter identification laws but had not received federal approval for them, state officials said that they were moving to begin enforcing the laws.”¹¹¹

On a national level “237 bills were introduced in 46 states to increase access. Unfortunately, others have restricted access — 33 states introduced 92 restrictive bills...While 10 states passed 13 bills in 2013 to expand voting opportunities, eight states passed 9 restrictive laws.”¹¹² This battle over voter identification was epitomized by the North Carolina “monster” anti-voting bill H-589, which “raises contribution limits, kills the *Stand By Your Ad* law, allows secret electioneering spending by outside groups, and ends the pre-registration program for teenagers and much more.”¹¹³ This bill has garnered much attention as it serves as the clearest example on the outright attack on voting rights.

2014

2014 had a marked uptick on the advocate’s side for voting rights as more expansive legislation was coming from both sides of the aisle to battle the vulnerability the gutting of the *VRA* created.

- 340 expansive bills to increase access to voting were introduced in 42 states plus the District of Columbia.¹¹⁴
- 12 states plus the District of Columbia have passed 19 expansive bills to be enacted.¹¹⁵

Although this number is high, the opponents were not sitting idly by and allowing progress to go unchecked. “At least 83 restrictive bills were introduced in 29 states [and] two states have passed 4 restrictive bills this session.”¹¹⁶ 2014 signaled a stagnation in efforts to roll back voting rights, which many count as a victory, yet much was left to be done.

2015

At the midpoint of 2015, the competition between restrictive and expansive election legislation continued to play out, although it is important to note that this was the third year in a row expansive bills outnumber restrictive bills. “Since the beginning of the 2015 legislative session, 113 bills that would [have] restrict[ed] access to registration and voting [had] been introduced or carried over in 33 states. Over the same time period, at least 464 bills that would [have] enhance[d] access to voting were introduced or carried over in 48 states plus the District of Columbia.”¹¹⁷

Progressive pro-democracy election legislation not only worked to broaden and moderate the franchise, it also provided a foundation for understanding the advances and the struggles made politically in regulating the right to vote from a civil rights perspective. Well known and often cited voting rights legislation include the *VRA*, the *NVRA*, and *HAVA*, but the past five years have shown a significant undermining of these laws through state and local enactments to restrict the right to vote. It is now up to the advocates of voting rights to champion expansion in the face of well-funded opposition.

SUMMARY

For most progressive pro-democracy supporters of the *Voting Rights Act*, its 50th anniversary was bittersweet. While the law had great success in tearing down obstacles to African American voting and representation in the South and elsewhere, the Supreme Court's 2013 *Shelby County v. Holder* ruling that overturned Section 5 of the law, took away its most powerful tool — federal oversight of states and localities with a history of racial discrimination. While significantly disabling the *Voting Rights Act*, the Supreme Court simultaneously acknowledged the persistence of voter discrimination and challenged Congress to come up with a new coverage formula to protect against it. If history is to be our guide, this will not happen without the persistent organizing and advocacy of America's progressive pro-democracy coalition.

As citizens from all corners of the country can attest, voter suppression is still a widely pervasive problem in national and many state and local elections. Gone are the days of literacy tests and poll taxes -- instead, they have been swapped out for subtler hurdles like stringent voter ID laws, strategic redistricting and deceptive poll practices that confuse and demotivate certain constituencies. But there have also been a number of positive developments in the states to expand voting access. Like we see with so many other important issues, for a more prosperous and just nation, cities and states are taking the lead while Congress stalls. When it comes to voting rights, at a time when some conservative-run swing states are doing whatever they can to roll back access, other states are showing the way forward for ensuring that voting is not a privilege, but a right.

The fight for voting rights must be waged on both the federal and local levels. We must pass a new bill to update the *VRA*. State work to modernize elections and combat restrictive bills must continue and intensify. What follows is a review of the legislative progress and retrenchments and a vision for a voting rights legislative agenda for the future.

The Transformative Justice Coalition has a clear vision and concrete strategic plan to protect the right to vote in the face of oppressive laws and to remove those barriers for future elections.

SECTION 7: STRATEGIES FOR PROTECTING THE VOTE

As we approach the middle of the second decade of the 21st Century, it is evident that pro-democracy forces throughout the U.S. must pursue a bold strategic agenda if we are to achieve our vision of a fully inclusive, equal, and robust democracy. In our view, an effective defense and proactive expansion of the equal right to vote requires a two-part strategic approach: (1) the dismantling of voting barriers and (2) the promotion of civic engagement.

The two broad strategies in this section present both short term and long term opportunities for the most significant changes and combine low-budget and high investments and strategic and practical undertakings capable of transforming the movement toward an equally inclusive democracy. Undoubtedly, there are additional strategies and program-based activities that should be pursued that are not included in this strategic framework; but, the research, interviews, and assessment of the landscape have led to these high value strategic recommendations that are highlighted in this section. These many strategies represent a 10-year plan of organized investment to build a high capacity, effective and well-coordinated nationwide sustainable infrastructure—a network of national, regional, state, and local organizations that collaborate their programming for maximum impact.

This strategic framework is designed to allow for civil rights, voting rights, civic engagement, and pro-democracy organizations to take the offensive position in leading a resurgent national movement to secure an open, equal, and inclusive democracy.

DISMANTLING VOTING BARRIERS

1. ESTABLISH A NATIONAL NETWORK FOR AN OPEN AND INCLUSIVE DEMOCRACY

To transform the current environment's serious barriers and threats and to realize our vision of a fully inclusive government and engaged electorate, we recommend: an intentional investment to reposition the many talented and heroic- but disconnected- organizations into a more coordinated network with a series of commonly agreed upon high impact strategies and programming. This proposal contemplates building upon the existing non-profit and non-partisan networks, incorporating groups that are isolated, and recruiting unconnected progressive organizations which work on political participation in this network.

A common theme heard in almost every interview was the perception that too many of the existing groups are too thin on staffing, lacking the crucial function of professional communications operations, some with inadequate legal connections, and without a sufficient core of community organizers and outreach staff. Many of the groups have broad agendas that result in the area of voting rights and civic engagement being viewed as “high priorities” but have little programmatic capability to provide needed programming. Concern about “resource deprived” organizations was a common theme. Some interviewees expressed a desire to see more forced consolidation of organizations especially the one to two person organizations, while others emphasized respect for existing organizations but urged new streams of funding to build greater capacity. Even established larger organizations, already lacking adequate general operating funds, are stressed to provide sufficient staffing to cover this area.

The network could be a catalytic force by providing coordination of programming for maximum impact, vital technical assistance, knowledge sharing, major communications leadership, technological improvements, modernization of operations, promote and disseminate research, be the source of on-going public engagement, and provide supplemental resources for major state and local fights.

This network proposal recognizes that state and local capacity must be supported; but, that even if every organization has sufficient capacity, there is still a need for strategic coordination. This network would be multi-racial, interdisciplinary, and have a steering committee of 12- 25 members representing the critical organizations and vulnerable populations.

This strategy seeks to leverage the W.K. Kellogg Foundation’s existing investments in voting, civic engagement, racial equity, racial healing, and civil rights by broadening its network of engaged organizations through a coordinated national campaign.

As a first step, holding a national convening on voting rights, civic engagement, and political participation for the entirety of the W.K. Kellogg Foundation supported organizations and other key change organizations would be vital to repositioning this movement.

2. FIX THE *VOTING RIGHTS ACT*

In the wake of the *Shelby v. Holder* decision, Congress must act quickly to establish a new formula to determine which jurisdictions must submit voting changes for preclearance. Without the preventive power of *Section 5* to stop discrimination in voting before it occurs, enforcement of the non-discrimination promise of the *VRA* is dependent upon expensive, belabored, and time delayed litigation under *Section 2*. Additionally, the loss of the notice

provisions of *Section 5* leaves communities vulnerable and organizations blind to potentially adverse actions and not able to respond immediately. For these reasons, a legislative fix to the weakened *Voting Rights Act* is an imperative.

The bipartisan *Voting Rights Amendment Act* of 2014 is under consideration by both the U.S. Senate and House of Representatives.¹¹⁸ This bill includes a new formula to determine covered jurisdictions under *Section 4*, strengthens *Section 3* by extending federal supervision after any violation of the *VRA*, requires jurisdictions to publish redistricting, polling places, and other similar changes in voting procedures, eases the process for obtaining preliminary injunctions against discriminatory voting laws, and reasserts the Attorney General's authority to dispatch election monitors.¹¹⁹ However, Congressman Jim Sensenbrenner (R. WI) has been unable to rally support for the bill from Republicans in the House and the coverage formula under this "compromise bill" is considered too weak by many civil rights advocates. This bill stalled in Congress without robust and enthusiastic support.

In June of 2015, bicameral legislation was introduced to renew the nearly two-year effort to restore the historic law and its vital voter protections. The *Voting Rights Advancement Act* of 2015 (*VRAA*) was introduced by Senators Leahy, Durbin, and Coons and Representatives Lewis, Sewell, Sanchez, and Chu. This bill contains an even more robust new coverage formula under *Section 4*, strengthens protections for Native Americans, and requires a public notice procedure by all jurisdictions in the nation of any proposed electoral change.

The *VRAA* is co-sponsored by members of the Congressional Black Caucus, Hispanic Caucus, and Asian Pacific American Caucus. However, no Republicans support the *VRAA* as of this writing. The proposed Voting Rights Advancement Act will serve as a warning that the right to vote in the 2016 elections is being threatened.

Civil rights and voting rights advocacy organizations must have a well-resourced and coordinated campaign to educate and encourage members of Congress to make this bill a legislative priority. There is a need for more education of the American public about the necessity of a *Shelby* legislative fix. The reality is that without a fix, we are left with a severely weakened *VRA* with limited enforcement capacity. Furthermore, we are years away from an appropriate federal fix without a major shift in the composition of Congress.

It is recommended that support be given to the civil rights organizations to keep up the pressure and a steady drumbeat of the harms caused by the lack of a restored *Section 4b* of the *VRA*. However, robust funding must go to the other strategies described in this document.

3. PASS THE *NATIVE AMERICAN VOTING RIGHTS ACT* AND TAKE EXECUTIVE ACTION TO PROTECT NATIVE AMERICAN VOTERS

It is imperative that effort be made to support the *Native American Voting Rights Act* of 2015 (NAVRA). The *NAVRA* is designed to address the 17% turnout gap between Native Americans and the general population. The *NAVRA* would close a glaring loophole in the *Voting Rights Act* of 1965 to specify that Native American reservations are covered by voting rights protections.

The provisions of the *NAVRA* would, according to the Library of Congress, prohibit “states and local governments from: eliminating the only polling place or voter registration site on an Indian reservation; moving or consolidating a polling place or voter registration site located on an Indian reservation to a location one mile or further from the existing one; moving or consolidating a polling place on an Indian reservation to a location across a natural boundary if that makes travel difficult for a voter, regardless of distance; eliminating in-person voting on an Indian reservation by designating an Indian reservation as a permanent absentee voting location, unless the entire state is or becomes a permanent voting state or the Indian tribe requests such a designation; removing an early voting location or otherwise diminishing early voting opportunities on an Indian reservation ; or decreasing the number of days or hours that an in-person or early voting location is open on an Indian reservation of changing the dates of in-person or early voting on an Indian reservations.”

The *NAVRA* has requirements for exceptions to these provisions. The states which have any part of an Indian reservation shall designate for each Indian tribe of each Indian reservation an officer to ensure state compliance with the *NAVRA*. Any state with any part of an Indian reservation shall provide one or more polling places for each Indian tribe. And if early voting is provided in the state, a state or local election official must provide upon request at least one early voting location on an Indian reservation. Finally, the *NAVRA* would amend the *Voting Rights Act* of 1965 to require the Office of Personnel Management to assign observers whenever the Attorney General receives a written complaint that efforts to deny voting rights on basis of race or color are likely to occur.

Notwithstanding this reports’ recommendation to support the passage of the *NAVRA*, aggressive state campaigns to achieve the goals of the *NAVRA* either through state legislation or executive action should be undertaken immediately.

Even as the Native American voting rights, civil rights, and civic engagement groups and communities fight to eliminate strict voter photo ID laws, state legislation should be pursued to require the recognition of Tribal ID's.

Support should also be provided to tribal, local, and statewide Native American voter engagement groups to undertake voter registration, voter education, and voter turnout and voter protection programs. These groups should be supported to create and maintain great Native voter information websites to supplement those of the states.

Support should be provided to Native American State Caucuses in order to encourage more interaction across state lines.

The President should be encouraged to consider an executive order requiring greater interagency cooperation to promote Native American voter engagement including needed research, provision of federal election monitors upon the request of the Department of Justice, development of best practices guides for the states, greater information provision for Native American voters and more outreach to encourage voter participation by Native Americans.

The Department of Justice (DOJ) must be encouraged to aggressively enforce Section 203 and 4(f) of the Minority Language Provisions of the *Voting Rights Act* of 1965 (as amended in 1975 to add these provisions and reauthorized in 1982, 1992, and 2006). Similarly, the DOJ should be encouraged to bring greater enforcement to Section 208 of the *Act*, the Voter Assistor of Choice Provision.

Finally, special attention must be given now to preparing for the 2020 Census and 2021 Redistricting efforts with the impact on Native American populations being a consideration in any new voting district line.

4. SUPPORT A NATIONAL LEGISLATIVE CAMPAIGN IN THE STATES TO “REPEAL, REPLACE, AND ENACT”

A well-resourced and coordinated effort at the state and national levels must be undertaken to repeal any and all state laws that restrict access to the vote. In particular, a message savvy effort to repeal onerous voter ID laws is an imperative. These laws that seek to retreat from our commitment to equal access to the franchise must be replaced with legislation that addresses the social, economic and geographic barriers that make it more difficult for people of color, students, low income individuals, individuals with disabilities, and

former felons to have access to the polls.

State-specific voting rights acts have been enacted in California and proposed in Florida,¹²⁰ Illinois,¹²¹ Oregon,¹²² and Washington.¹²³ California's *VRA* limits the use of at-large elections as a tool to dilute minority voting power and prohibits jurisdictions from gerrymandering districts to weaken minority voting power.¹²⁴ Furthermore, an amendment requiring local voting changes be submitted for preclearance by statewide authorities is currently under consideration by the California State Legislature.¹²⁵ California's trailblazing effort to secure additional voting rights for its citizens is a national model that should be embraced by all states.

National and regional associations of legislators, policymakers, and pro-democracy philanthropists should be made aware of these franchise-expanding legislative efforts and provided the tools to seek such changes in their respective states.

Our objective should be to have state voting rights legislations introduced, pending or passed in the high minority population states by the end of 2016 and in all the states by February 2020.

5. BUILD ENHANCED LITIGATION CAPACITY

In light of the *Shelby County v. Holder* and the diminished administrative role of the Department of Justice's Voting Section¹²⁶, there must be an enhanced litigation role for private parties. Voting rights advocates must modernize and enhance their litigation capacity. The Shelby Response Fund¹²⁷, spearheaded by Karen Narasaki, Commissioner of the United States Commission on Civil Rights and the former president and executive director of the Asian Americans Advancing Justice, is laying the financial foundation for collaborative national and local challenges to voter suppression laws.¹²⁸ Most importantly, this Fund has forced previously competitive, relationally strained, and non-aligned litigation organizations to work smarter and closer together, thus avoiding duplication, facilitating sharing of knowledge and tactics, and coordinating outreach to vulnerable communities in the states through informal geographic leadership agreements.

The current picture of voting rights litigation reflects mixed progress. Recent successes include a ruling by the U.S. Court of Appeals for the Fifth Circuit holding that the new Texas voter ID law does have the effect of discriminating against minorities, and remanding to a lower court the determination of whether passage of the law had discriminatory intent.¹²⁹ Another success came by way of the U.S. Supreme Court's decision to decline hearing an appeal of a lower court's decision striking down requirements in Arizona and Kansas that voter registration applicants attach proof of

citizenship to their application.¹³⁰ Recent setbacks include a Georgia judge's decision to decline intervening in a case challenging voter registration officials who failed to timely process thousands of voter registration applications.¹³¹ Although some affected jurisdictions settled and voluntarily processed all properly-filed voter registration applications before the subsequent election, such setbacks, especially at the state and local level, animate the need for vigilant and well-funded voter rights litigation strategies.

In addition to *VRA* related litigation, support of litigation to remove language barriers and enforce the *NVRA* must be supported given the vast numbers of voters impacted. Also, there must be more litigation to enforce the *Americans with Disabilities Act (ADA)* to alleviate the accessibility barriers for those with disabilities. Another key area of voting rights litigation is to fight election irregularities including purging, caging, reduction and consolidation of precincts, failure to process registrations, and restrictions on early voting.

As is clear in the recent trial of the *NC NAACP v. McCrory* case in North Carolina, litigation can involve a variety of restrictive and detrimental laws negatively reducing the right to vote for African Americans, Latinos, youth, and the poor. This is one of the cases that the entire civil rights community is watching. The combination of litigation, public education, and public mobilization generated by the Moral Monday Movement and the NC NAACP around this case is a model to be considered in future cases.

Foundations and major individual donors should strongly consider supporting the Shelby Response Fund and other similar voting rights collaborative funding initiatives. The proposed network could be of tremendous assistance in providing needed assistance to the litigation groups. This recommendation comes with an urgency as election year litigation is highly predictable; however, all of the litigation groups interviewed noted that they had fewer resources in 2015, and were predicting even fewer resources for 2016.

6. CREATE STRONGER MONITORING SYSTEM FOR ELECTORAL CHANGES AT LOCAL LEVELS

The gutting of preclearance in the *Shelby v. Holder* decision eliminated the strongest deterrent and check on the suppression of the vote via procedural changes implemented by local jurisdictions. Until Congress acts, voting rights advocates must stand in the breach by creating systems to monitor and report local procedural changes. Many organizations are trying to address this serious monitoring deficit including the NAACP and the Post *Shelby* Collaboration.

However, we found that there are many serious gaps in the ability to monitor the electoral changes being made by local city councils, county commissions, utility commissions,

school boards and other political entities that previously would have been required to report these changes prior to implementation. There is a great concern that many of these local political entities may become more emboldened the longer there is not a *Shelby* fix and may start instituting more adverse electoral and procedural changes in the years to come. Although, local voting rights and progressive organizations nationwide have been encouraged to attend election board meetings in order to share information, the deficiency of reporting persists. Local organizations are often ill-equipped to monitor the changes and even when data has been gathered, there is a lack of trained, professional personnel to review and analyze this data and refer matters to the appropriate organizations.

It is strongly recommended that a new nationwide monitoring network and clearinghouse be created, supplementing and leveraging existing statewide collaborations to gather and analyze local information and data, and to effectively position legal service providers to litigate against procedural abuses. Expanded State Tables, as discussed below, are an excellent avenue to advance this strategy. In addition, the local and national litigation groups must be a part of this process. This is an expensive, but critical, recommendation. In the interviews, some recommended that this new monitoring network could be created with 1-3 dedicated persons in the states and with supplemental funding to local organizations.

7. CREATE GREATER ASSISTANCE AND ADVOCACY FOR EX-FELON RE-ENFRANCHISEMENT

Nearly 6 million Americans are not permitted to vote due to felon disenfranchisement laws,¹³² which has affected the outcome of numerous elections.¹³³ Among that number are an estimated 2.2 million African Americans.¹³⁴ Information on the disenfranchisement rates of other groups is extremely limited, but the available data suggests felony disenfranchisement laws may also disproportionately impact individuals of Hispanic origin and others. Hispanics are incarcerated in state and federal prisons at higher rates than non-Hispanics: about 2.4 times greater for Hispanic men and 1.5 times greater for Hispanic women.¹³⁵ If current incarceration trends hold, 17% of Hispanic men will be incarcerated during their lifetimes, in contrast to less than 6% of non-Hispanic white men.¹³⁶ Given these disparities, it is reasonable to assume that individuals of Hispanic origin are likely to be barred from voting under felony disenfranchisement laws at disproportionate rates.

Voting rights advocates must continue to pressure state legislatures and governors to enact legislation and issue executive orders to repeal lifetime former felon disenfranchisement laws, extend the right to vote to all on probation, and streamline and render technical assistance during the re-enfranchisement process. Maryland's effort to re-enfranchise 40,000 of its citizens is an excellent guide for state-driven initiatives.¹³⁷ Superseding federal options also merit support, including the proposed *Democracy Restoration Act* and the *Civil Rights Voting Restoration Act* of 2015.¹³⁸

Advocates for the restoration of voting rights to former felons have also won victories in court. In California, an appeal of a court ruling granting the right to vote to around 60,000 newly-released former felons was recently dropped, paving the way for their re-enfranchisement.

Finally, some jurisdictions require the payment of fees to facilitate the restoration of voting rights to former felons. Such fee requirements are tantamount to a poll tax, and should be challenged in the courts and eliminated.

In preparing this report, a national conference call was held with formerly incarcerated persons and those with felonies to discuss the restoration process in 12 states, including Virginia, Florida, and Kentucky. The conference call participants strongly advocated for a national information and assistance hotline; but, also urged message development to help educate the formerly incarcerated citizens about the connection between voting and their life circumstances.

We recommend a national hotline for assistance and information regarding felony disenfranchisement laws in all of the states with the capability to refer people to organizations that provide assistance to restore their right to vote. With the high illiteracy rate among returning citizens and a complex restoration process in many states, such assistance is an imperative. Likewise, there is a need for support of organizations which provide on the ground outreach and assistance to the formerly incarcerated and ex-felon community.

8. SUPPORT STATE LAWS ON EQUAL ELECTION FACILITIES, POLL WORKERS, AND EQUIPMENT

Establishing equitable uniformity in resource allocation, technology and funding among the 8,000 jurisdictions that separately conduct elections is a major equal voting rights challenge.¹³⁹ In addition to demanding an equitable allocation of resources without regard to racial, language and income differences, voting rights advocates should encourage Congress to allocate recurring funds to the Election Assistance Commission (EAC) for the purposes of assisting local communities in regularly updating election technology.

Furthermore, inadequate and inconsistent training of poll workers can be improved by each jurisdiction adopting the objective best training practices featured in the EAC publication “Successful Practices for Poll Worker Recruitment, Training and Retention.”¹⁴⁰ Other recommendations include concerted efforts to recruit younger poll workers (including students) as well as poll workers with private sector experience, and creating incentives for employers to release employees in order to serve as poll workers.

In many jurisdictions, voters residing in predominantly minority precincts experience much longer wait times to vote.¹⁴¹ Recommended best practices to shorten wait times include more accurate estimations of the number of registered voters per precinct and the share that will turn out, pretesting the length of time it takes an average voter to vote, and expanding centralized early voting centers. State efforts in this regard should be periodically assessed and the results made public so that advocates and community activists have objective information by which to judge their elected officials' and elections administrators' decisions.

9. ESTABLISH A BLUE RIBBON COMMISSION

A permanent and prominent National Blue Ribbon Commission to Promote an Open and Inclusive Democracy should be established to galvanize public attention about the importance of our democratic system and to encourage voter engagement. One of the roles of the commission would be to promote legislation that makes the franchise more readily accessible to all eligible persons. This non-partisan commission would be constituted of well respected former leaders and leaders of government, philanthropy, corporate, academia, communities of people of color, civic engagement organizations, civil rights organizations, voting rights organizations, good government organizations, political scientists, youth organizations, technology, researchers, and journalists. The Commission would actively run campaigns to encourage voter engagement.

One of the central functions of the Commission would be to operate a massive communications operation to reach the full diversity of our electorate. Fundamental to its role would be the production of tools, resources and programs to promote civic engagement. This Commission would lead innovation in the election field. It would encourage and fund experiments to increase voter turnout, good candidates, and knowledge about elections. Importantly the Commission could serve as a strong moral voice against voter restrictions. The proposed Maryland Blue Ribbon Commission on Voting, Openness, Transparency, and Equality (VOTE) in Elections is an excellent example of the possibilities of a collaborative public process to improve elections procedures.¹⁴²

10. FORMALIZE AND PROVIDE SUPPORT FOR THE NATIVE AMERICAN VOTING RIGHTS COALITION

The Native American Voting Rights Coalition ("NAVRC") is a collaborative partnership of Indian and civil rights organizations seeking to combat obstacles to the Native vote.

Through targeted litigation, legislation, and education, the Coalition strives toward a civil society in which Native voters are fully and meaningfully engaged.

A special program to fight Native American voter disenfranchisement should be established to provide funding and other support to fight targeted discrimination and voter suppression against Native American voters. This program should be developed in close consultation with Native American advocacy organizations and Native American Tribal leaders and Election Officials. Promoting the recognition and actualization of the critical role of Native American sovereignty and self-determination regarding all aspects of elections affecting Native Americans would be a cornerstone of this program.

Another pillar of such a program would be to provide resources for targeted litigation to stop discriminatory voter denial and voter dilution schemes. It is clear from the many cases brought since 2000 against the states of Montana, Arizona, Kansas, Alaska, and New Mexico that litigation remains a needed and productive strategy to fight voting rights violations.

Strong support should be provided to the Native American Voting Rights Coalition (which is facilitated by the Native American Rights Fund to coordinate national, regional, state and local strategies to advance Native American voting rights). This Coalition should identify needed research and proactive programming to address the many challenges facing Native American voters.

11. ESTABLISH A PERMANENT VOTER INFORMATION AND ASSISTANCE HOTLINE

Election Protection's 1-866-OUR-VOTE Hotline, web tools and field programs have assisted hundreds of thousands of voters, including over 500,000 voters during the 2008 presidential election,¹⁴³ over 100,000 calls on the day of and before the election day in 2012,¹⁴⁴ and over 43,000 total calls during the 2014 midterm election season.¹⁴⁵ This hotline has had more public participation than many of the governmentally sponsored hotlines. A weakness of the public hotlines is that they often have low capacity, use recordings and are rarely live staffed. Also, the distrust of government results in many voters not reaching out to governmental authorities who are perceived as trying to restrict their right to vote. Unfortunately, a weakness of the Election Protection hotline is that it has lacked resources to have active staffing to answer the hotline live and to conduct outreach and publicize its availability in non-election cycles. To be effective, the communication of the hotline number through radio, TV, and social media is crucial, otherwise the public will be unaware of its existence. It should also allow for a vibrant and smart social media presentation of

voter protection materials that can be linked to a constant hotline operation.

A strong recommendation is to support a 365-day private hotline operation that is well staffed and highly publicized to assist the public with voting issues, to provide information about voting, and to encourage civic engagement. This hotline would need resources for communications, digital operations, and call center functioning, and paid and volunteer staff. The Network could take the lead in operating this hotline and insure that it is connected to existing hotlines run by organizations. During voting cycles, it could integrate with existing election protection and voter protection hotlines.

SECTION 8: PROMOTING CIVIC ENGAGEMENT

Over 51 million eligible Americans are unregistered. This represents 24% of the adult voting age population. Insufficient research exists on disengaged and infrequent voters. Even when registered, the low voter turnout of voters is deplorable.

Registration and turnout among African Americans has been improving in recent years in presidential elections. Perhaps in part because of Barack Obama's presence on the ballot, African American turnout levels among citizens of voting age in 2008 and 2012 were at approximately 66% and 65%—higher than that of whites. However, this has not been the case in other elections. In 2006 and 2010 midterm elections, the gap between African American and white participation rates were 5 and 11 percentage points, respectively. 11.2 million Latinos voted in 2012, but that was out of 23.3 million eligible to vote. Only 59% of eligible Latinos are registered. 48% of Latinos voted in 2012, 16 points lower than the rate of whites.¹⁴⁶

Although the U.S. Census does not publish much data on American and Alaska Native voting, analysis shows that Native voting rates are among the lowest of all racial and ethnic groups in the U.S. Almost two out of five eligible American Indians and Alaska Natives are not registered to vote. Though this figure has improved in the last few years, even among registered American Indians and Alaska Natives, the turnout rate is 5 to 14 percentage points lower than that of many of the registered voters of other racial and ethnic groups.¹⁴⁷ Asian Americans also have very low registration and voting rates. Despite relatively higher income and education levels, they vote at the same approximate rate as Latinos. In 2012, 47% of Asian Americans voted, compared to 48% of Latinos. Whites voted at a rate of approximately 64%.¹⁴⁸

Voter turnout among naturalized citizens is much lower overall than that of native-born citizens: consistently around 9 to 12 percentage points less. In the election of 2010, almost 1 in 2 native-born citizens turned out to vote, while less than 2 in 5 naturalized citizens did. Even in 2008, a year of historic turnout among many constituencies, just over half of naturalized Americans voted, compared to a little less than two thirds of native-born citizens.¹⁴⁹

Popular anecdotes regarding the disengaged are rampant with stories of disillusionment, alienation, and indifference. However, some studies report that many potential voters are confused about the voting system and find it hard to navigate the registration process or to know when and where to cast a ballot. For the poor and other highly mobile populations, the widely varied voting process from state to state or even county to county is confusing and disheartening. Language minority groups are especially disadvantaged by the lack of targeted outreach and the lack of language materials and assistance. For the 35 million voting-age people with disabilities in the US this group consistently has lower voter turnout than people without disabilities.¹⁵⁰ Voter ID laws, correct precinct rules, and other obstacles also discourage vulnerable voters.

Nevertheless, given the brilliance, innovativeness, and thoughtful leadership of groups like the Brennan Center and many others, there has been a strong election reform movement that has been smartly and persistently pursuing pro-democracy, inclusive, and civic engagement enhancing legislation at the state level. Because of these actions, over 464 different bills to make voting more accessible are currently pending in state legislatures. These reforms include voters' bill of rights, election day registration, early voting expansion, language minority assistance, state voting rights acts, state pre-clearance acts, expanded voting hours on election day, automatic voter registration, pre-registration for 16-17 year olds, and many more. It is important to support and affirm these strategies while making sure that they truly advantage communities of people of color, language minorities, low income, youth and students, people with disabilities, and other vulnerable groups.

Policy centered voting should be promoted as the norm instead of popular contests or strict party voting.

The strategies listed below are designed to address and overcome these issues that contribute to voter disengagement and to enhance the movement for electoral reforms:

1. SUPPORT VOTER REGISTRATION REFORMS

The elimination of voter registration barriers is a fundamental prerequisite for equal voting rights and fair elections. There are proven powerful innovations which can streamline and make it easier to register to vote, including same day and electronic voter registration, as

well as the pre-registration of young people approaching the legal voting age. Yet, another new innovative proposal is that of automatic voter registration, which has game changing potential in removing the obstacles of voter registration.

SAME DAY REGISTRATION: Fourteen states and the District of Columbia permit same day voter registration, realizing significant increases in voter participation with limited evidence of fraud and abuse. In North Carolina, in 2008, 236,700 people used same day registration during early voting and 39% of those voters were African American. In 2013, with the passage of the North Carolina voter suppression law, same day registration during early voting was eliminated. Additional states should implement same day registration, especially in light of network and online technological advances that can easily detect duplicate voting attempts. This one strategy has the potential to increase voter participation for vulnerable communities, especially racial minorities, low-income communities, and the least educated.

ONLINE VOTER REGISTRATION: Twenty-one states have implemented online voter registration, and six states and the District of Columbia have plans in the works.¹⁵¹

PRE-REGISTRATION OF YOUTH: Jurisdictions that pre-register young people to vote coordinate with school districts or DMV's to place the names of young people who are not of legal age to vote on the voter rolls, so as to enable them vote.¹⁵² Ten states and the District of Columbia have adopted pre-registration of 16 or 17 year olds.¹⁵³

REGISTRATION OF 18 YEAR OLDS LEAVING FOSTER CARE: A minor strategy to help some of the most vulnerable populations would be immediate registration for all emancipated youth as they reach the age of 18. There are 23,000 youth who come of age each year who are in the foster care system and are formally transitioned out. They should be registered to vote through the foster care system before their transition.

AUTOMATIC VOTER REGISTRATION: Automatic voter registration adds a voter's name to the rolls when they use a government service, such as when they apply for a driver's license.¹⁵⁴ While Oregon is the only state to adopt automatic voter registration,¹⁵⁵ there is great potential in the expansion of this method. Recently, automatic voter registration was suggested in the state of Pennsylvania. There is generally little awareness even among some state legislators of this potentially dramatic

remedy to citizen engagement. There should be active trainings, teach-ins, and other events to inform state legislators about this reform. A significant note of caution regarding this strategy is to make sure that ineligible non-citizens are not accidentally placed on the voter rolls through this process as this could be determined an illegal act with penalties of deportation and permanent bans for applications for naturalization.

A goal of the civil rights, voting rights, civic engagement and pro-democracy forces should be to have every state adopt legislation authorizing online voter registration, followed by the adoption of Same Day Registration and Automatic Voter Registration in the next 3-5 years.

The funding and development of omnibus draft legislation proposing these voter registration innovations will be critical in order to ensure the addition to the voting rights advocacy toolkit.

2. INAUGURATE A 10-YEAR PLAN CIVIC LEARNING, LEADERSHIP AND ENGAGEMENT INITIATIVE

By 2020, millennials will constitute 39% of all eligible voters. Every year moving forward, an estimated 800,000 Latinos will reach the age of 18. A targeted 10-year plan to create a new generation of smart, educated, and dedicated voters has to be a priority for this nation. Given the pure numbers of the potential Latino vote in future elections, this cohort of future Latino voters can be a decisive force in all future elections if an investment is made now in educating and preparing them for robust civic engagement. Similarly, African American youth must be encouraged to take leadership for building greater civic engagement.

CIVIC ENGAGEMENT OF LATINO TEENAGERS: Over the next two decades, it is estimated that approximately 50,000 young Latino citizens will reach the minimum voting age each month,¹⁵⁶ potentially adding – if properly registered – between 600,000 and 800,000 Latinos to the voting rolls annually. In 2012, 11.2 million Latinos voted out of the 23.3 million eligible. Major and concentrated investments should be provided to Latino organizations as a coordinated strategy to develop specific community based and K-12 targeted strategies to creatively teach civic engagement. With proper funding, organizations like the National Association of Latino Elected and Appointed Officials

could provide great leadership of a program of this magnitude.

BUILDING LEADERSHIP OF BLACK YOUTH: By way of social media and traditional protests, African American youth have remarkably engaged with the #BlackLivesMatter movement and initiatives related to police brutality and criminal justice reform. In 2008, African American youth out-voted all other young people. This engagement provides an extraordinary opportunity to convene and discuss voting rights issues as a part of a holistic response to their vitally important concerns.

3. BUILD MORE ROBUST AND SUSTAINABLE STATE TABLES

State tables are networks of state-centered non-profit voting rights and progressive advocacy organizations that convene to collaborate and leverage their resources in order to more efficiently serve their communities.¹⁵⁷ Presently, State Tables are organized in California, Colorado, Florida, Georgia, Idaho, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, Washington, and Wisconsin.¹⁵⁸

The Georgia state table is a great role model based on its diverse contingency of organizations from throughout the state and its sophistication of programming, including a “Get Voter Photo ID program.” This table also exemplifies the importance of statewide coordination in legislative advocacy by defeating voter suppression measures to curtail the vote.

State Voices should be supported in its efforts to build more tables nationwide. Voting rights, civil rights, civic engagement, and pro-democracy groups should be encouraged to organize a state table in every state, and would need increased funding and administrative support to accomplish this aim. For effectiveness, these state tables will need to be diverse, inclusive, and representative of the geography of the state. They will also need to be politically savvy and capable of enhancing and not displacing existing organizations.

4. LAUNCH A COUNTDOWN TO 2016 CAMPAIGN

During the lead-up to the 2016 presidential election, a coordinated non-partisan monthly countdown campaign could do much to build and sustain awareness, knowledge, and excitement for the upcoming election. This campaign could feature celebrities, youth, community leaders, and other respected personages to be messengers regarding the need to be a prepared and knowledgeable voter. Each month should focus on a different aspect

of the voting experience, such as awareness of voter registration and ID requirements and location of polling places. In the months closer to Election Day, this campaign should disseminate more specific information about candidates and ballot issues, all in the interests of providing voters objective and informative resources. A diverse cadre of celebrities and modern social media tactics should be employed to make this effort generationally relevant. Also, there could be voter incentives integrated into this campaign including “pledge to vote” and “reach out to your neighbor” campaigns and affirmations in the form of special certificates for those voters who participate in the campaign.

Foundation funding, corporate funding, individual donors and coordination among non-partisan stakeholders would be instrumental in developing such a monumental monthly undertaking.

5. IMPROVE AND EXPAND VOTER CONTACT STRATEGIES

Frustration with the low turnout of registered voters, especially new registered voters is prevalent. However, research on voter turnout displays a direct correlation between the amount of contacts voters receive and their actual voting on Election Day.¹⁵⁹Field operations using mobile technology, phone-banking, web and social media programs, direct mail programs, early and absentee voting assistance programs, voter protection legal initiatives, and Election Day poll watching with GOTV operations are vital methods to contact voters on the margins of equal ballot access.¹⁶⁰

In a coordinated campaign, pro-democracy foundations, corporations, and philanthropist should be encouraged to share their intellectual, technical, and financial resources to develop new tools to assist in voter contact efforts.

Also, it is recommended that a paper be written and widely shared in the field of the highly successful voter registration campaign of 2010 undertaken by the MS NAACP. This active engagement and contact campaign resulted in a 73% turnout of newly registered voters.

6. ADVOCATE FOR A PUBLIC EDUCATION INVESTMENT IN CIVIC ENGAGEMENT

President Thomas Jefferson wrote “wherever the people are well informed they can be trusted with their own government.”¹⁶¹ Voter rights advocates should engage with initiatives like the Center for Civic Education¹⁶² to ensure that voting rights issues and topics are included in civic educational opportunities.

Although there is a resurgence of civics instruction in schools, there are far too many school districts which do not teach civics, or teach civics as a historical matter without any connection to the present day electoral process. Innovative programs that engage youth in mock legislative sessions that help them to draft legislation, which sponsor visits to governmental meetings and otherwise directly involve youth, have been shown to be highly effective programs at producing future active voters and leaders. Foundations and the philanthropic communities must be encouraged to fund civic education efforts that begin in our public school systems and follows voters over their lifetime. Such efforts must be consistent and persist not only in elections season, but also throughout the year.

7. HOST CONVENINGS

Over the last century, we have seen the incredible power of convening to create shared dialogue, and to debate pathways to impact and to catalyze groundbreaking ideas and transformational campaigns and initiatives. This proven method of addressing complex issues should be employed in our efforts to secure the vote.

REDISTRICTING: Decennial redistricting is a complex procedure necessitating early involvement in order to fully vindicate the process and preserve sufficient time for legal challenges and other contingencies. Voting rights advocates should convene immediately to strategize for the 2020 federal and state redistricting period.

BUILDING LEADERSHIP OF BLACK WOMEN: Although nearly 70% of eligible Black women voters participated in the political process in 2012, Black women suffer disproportionately from inequality, including a substantial wage gap and high unemployment. Furthermore, no Black women serve in the U.S. Senate or as a state

governor, and only 18 Black women serve in the House of Representatives. Accordingly, a convening of African American women leadership is in order. Equally necessary is the support of leadership convenings for Latina, Asian Americans, and Native American women.

8. BUILD MORE CANDIDATE DEVELOPMENT PROGRAMS

Communities of color are more likely to vote when they perceive candidates who are capable of representing their needs. In the interviews for this report, participants constantly cited a huge need for programs to produce well trained, policy centered candidates who know how to run a successful campaign. Often candidates from vulnerable communities are uninformed on methods for voter outreach and campaign fundraising. These candidates must be grounded in a policy centered agenda which addresses the needs of their prospective constituent communities. Many interviewees ranked this concern in their top two of priority strategies. This report supports providing support for non-partisan candidate recruitment and training programs.

9. ENGAGE FAITH COMMUNITIES IN EDUCATION

Faith communities continue to occupy a vital organizational role, particularly among racial and language minorities. Voter registration drives and Souls to the Polls (when congregations travel together to vote early after church) are examples of the interplay between faith communities and voting.¹⁶³ It is therefore incumbent to engage and educate faith communities as to proper practices and procedures, especially since voter registration drives and early voting are under attack. The funding and development of targeted training materials is vital for this manner of outreach.

10. ENGAGE MORE ORGANIZERS

Individual contact remains the greatest way to ascertain the true concerns and needs of the community. To that end, dispatching the greatest number of organizers to engage in door-to-door and civil society interaction is indispensable in properly developing meaningful strategies to increase equal voter participation. This is another recommendation where better organized, expanded, and well-funded State Tables could take the lead.

11. SIGNIFICANTLY ENHANCE COMMUNICATIONS

In an age when people consume information (often inaccurate) at lightning speed and via rapidly changing mediums, voting rights advocates must invest in professional, modern, and innovative communication materials and methods. Effective use of social media and mobile devices is paramount, especially when attempting to reach younger voters. In general, the pro-democracy movement still lags in technological sophistication.

In a coordinated campaign, pro-democracy foundations, corporations and philanthropist should be encouraged to share their intellectual, technical, and financial resources to develop and disseminate accurate and motivational information about the power, obligation, and positive impact of voting.

12. ENSURE SUSTAINED RESEARCH

Given the growing civic engagement movement, there is a rich opportunity for the production of more needed research and reports that can be applied. Empirical review of election data, such as turnout and demographic trends, is vital to properly develop nimble strategies to increase equal voter participation.¹⁶⁴ Many of the civil rights groups have released excellent reports over the last 5 years which contain valuable information; but, these reports are not known to a wide range of organizations engaged in this work which can be attributed to the professional communications support gap. The Network could be effective in promoting and disseminating research.

Academic institutions, established research organizations and civil rights, voting rights, civic engagement, and pro-democracy groups should be supported in their efforts to undertake quantitative and qualitative longitudinal and cross-sectional studies that measure the impact of voting trends, election laws, and changes in demographic and the voting environment.

13. ADDRESS THE CIVIL RIGHTS IMPLICATIONS OF UNLIMITED MONEY IN ELECTIONS

Another voter discouragement issue is the impact that money in politics has on making elected officials beholden to money interests and unresponsive to advocating and

supporting policy in the best interest of their communities. This issue is especially hard for people of color candidates who aren't rich and feel that they must seek corporate and big money support to be able to run a well-financed campaign and to be re-elected. This dilutes the power of African American, Latino, Asian American, and Native American communities to truly have representatives who advocate in their interests. More support should be given to public financing programs.

14. MAXIMIZE THE STRENGTH OF BLACK, LATINO, ASIAN, AND NATIVE AMERICAN STATE CAUCUSES

In many interviews, the issue of the unfulfilled promise of African American, Latino, Asian and Native American State Caucuses was expressed. Often it was stated that this was either a money in politics issue, lack of training, or the absence of a policy centered approach to representation.

These caucuses should be the leaders in the state legislatures on election reform. They should receive expert assistance in learning how to message and build allies for reform among legislators from both sides of the aisle.

It is recommended that more programs be instituted to provide training and policy programming for these caucuses. Also, across state line policy convenings should be held to address multi-state issues such as environmental injustices.

SUMMARY

To live up to our declared vision of one nation, all sectors of the American community must be engaged. To transform the administration of the franchise by encouraging and supporting the broadest most expansive and inclusive civic engagement efforts, begins with the individual and must be seen as the responsibility of the legislative, executive, activist, advocates, legal, philanthropic, and corporate sectors.

As our history reveals, democracy requires eternal vigilance.

CONCLUSION

America was founded as the world's leading democracy. Adhering to the principle that the power belongs to the people. Though narrow in its definition of who should be included, this new way of governing had at its foundation what was, at the time, a revolutionary and transformational vision of how to create real and lasting prosperity and freedom.

In 2015, the imperative for an inclusive democracy is paramount to the future of this nation. Political democracy is based on the notion that power is shared equally among all citizens. When this power is withheld from segments of the community, the entire community suffers, discord erupts, economic engines grind to a halt, and governments fail.

As this national report and its geographic specific reports have noted, our national quest to realize the ideal of an open, equal and inclusive democracy has been a constant and hard fought struggle spanning centuries since the inception of this nation. Sadly, this fight is far from won even upon the 50th Anniversary of the *Voting Rights Act*. The national landscape that has been presented in this report is one of daunting challenges, but also tremendous opportunities for long-term systemic change. Historic highs of African American voting strength, manifested by the election and reelection of President Barack Obama, were reached at the same time as voter suppression measures started to sweep the nation.

In the opening rounds of the 2016 presidential election campaign, Latinos have been demonized by one candidate in a blatant attempt to appeal to a racially polarized Caucasian conservative base. Asian Americans are still too often the forgotten or ignored racial minority. Native Americans face deliberate obstacles to voting. Although we respect the unique and particularization of each of these communities, there still are common forms of disenfranchisement which adversely impacts all of these groups, as well as other vulnerable populations including language minorities, low income voters, youth and student voters, and people with disabilities. And there are particularized barriers to each community which require specific and intentional investments to overcome.

Fortunately, American strength is in the perseverance of its citizens. The Strategies contained in this report affirm that our ideal is not an aspiration that is out of reach, rather with better and coordinated organization, adequate capacities, expanded infrastructures, intellectual rigor, and more funding investments, we can regain status as the most inclusive and expansive democratic society. A ten-year long term strategic plan is ripe with promise of significant transformation for this nation in grasping and actualizing this vision.

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STATE OF THE CITY: 2015 VOTING RIGHTS REPORT ON NEW ORLEANS

HISTORICAL SNAPSHOT

A decade after Hurricane Katrina, a national conversation continues on the devastating impact that the storm and subsequent storm had on New Orleans. From the outside it appears that New Orleans has made the greatest comeback ever but reality is that recovery has been uneven in the city, especially in poorer African-American neighborhoods, where Katrina's damage is still reverberating in poverty and social injustice.

For many, the 10th anniversary of Katrina is an urgent call to action for civic engagement, and not a celebration of resurrection and redemption as current trends and statistics are alarming. Local community leaders, urban planners, residents, and civic organizations call attention to the decrease in the African American footprint¹⁶⁵, gentrification¹⁶⁶, the devastating poverty levels of Black children¹⁶⁷, a struggling education system¹⁶⁸, rampant housing discrimination¹⁶⁹, and growing income inequality.¹⁷⁰ All if this combined with a shortage of low income housing¹⁷¹ with surging rents¹⁷² creates an uneven recovery.¹⁷³ It should also be note that even with growing numbers, the Latino population is still suffering due to economic deprivation and their immigrant status.

In the immediate aftermath of Katrina, government leadership would have been vital to the rebuilding process. However, this need was not met. Municipal elections were scheduled for February 4th, 2006; but, due to the huge portion of the electorate being displaced and the voting infrastructure (schools, churches, and community centers that serve as polling centers) being destroyed by the hurricanes and subsequent flooding, the election was moved to April 22nd and the runoff election to May 20th. As a means to promote voter participation by providing easy access to the polls, the city consolidated the polls.¹⁷⁴ However, five years after the storm, precincts were still being shut down and merged across the city, resulting in 76 closed precincts, which resulted in voter confusion over the correct polling location and forced them to travel inconvenient distances to cast their ballot.¹⁷⁵ This assault on the franchise typifies the struggles of many New Orleanians to participate in the political process that continues to leave them displaced from the system.

After the storm, a local Vietnamese community located within the 9th Ward, already dealing with the devastation of rebuilding their destroyed community, faced another blow by New Orleans Mayor, Ray Nagin. Mayor Nagin, using his emergency powers, selected this Vietnamese community as the location for the landfill.¹⁷⁶ The community found this problematic as the landfill had toxins that would likely leach into a canal that the community used to water their gardens.¹⁷⁷ In their search for answers as to how the location of the landfill was selected, they were told their community was chosen because the Vietnamese in New Orleans did not vote.¹⁷⁸ This crisis galvanized the community to overcome its own intergenerational dynamics and organize around the cause, which ultimately lead to the shutting down of the landfill.¹⁷⁹ Furthermore, the successful

campaign led to a permanent community organization that soon found allies in other ethnic communities, such as Blacks and Latinos, creating an effective coalition.¹⁸⁰ The organization continues to expand its civic engagement by incorporating voter registration and GOTV efforts.¹⁸¹

Democracy is dependent upon the ability of all people to participate in public dialogue. Without the ability to express viewpoints and have them represented in government, individuals cannot exercise political power to help shape their community and the city of New Orleans.

NEW ORLEANS METHODOLOGY

The Transformative Justice Coalition (TJC) undertook qualitative research designed to document the impediments faced by New Orleans voters which might hinder their full access to the franchise and voting. Specifically, this literature review and qualitative research sought to identify, explore, and make recommendations to ameliorate the major obstacles that preclude people of color (African Americans, Latinos, Native Americans, and Asian Americans) from unfettered and full participation in the franchise.

RESEARCH TEAM

TJC's team, led by founder and Executive Director, Barbara Arnwine, included: an attorney, Lakeila Stemmons; two recent law graduates, Halimah Najieb-Locke and Andrew Street; and one law student, Brandon Wallace.

LITERATURE REVIEW

TJC undertook a comprehensive literature review, which included reports on the current state of civic engagement in New Orleans, review of legislation/laws in the state, polling databases, and national and local news reporters.

QUALITATIVE RESEARCH & INTERVIEWS

Over a two-day period, TJC founder and Executive Director, Barbara Arnwine, assisted by Lakeila Stemmons and Brandon Wallace, conducted four one-on-one interviews with prominent New Orleanians and attended two town hall meetings hosted by Justice and Beyond, where we interviewed members of the community, activists, and voting rights and civic engagement leaders.

New Orleans Interviewees

Trupania “Trap” Bonner
Crescent City Media Group/Open
Democracy Project (LA)

Carl Galmon
Civil Rights Activist & Public Speaker

Pat Bryant
Co-Moderator
Justice & Beyond

Ashleigh Gardere
Sr. Advisor to Mayor Mitchell J. Landrieu
Director of Network for Economic
Opportunity at the City of New Orleans

Erica Buher
Program Director
VAYLA New Orleans

Steven Kennedy
Community Activist

Deirdre Johnson-Burel
Executive Director
Orleans Public Education Network

Nakita Shavers
Founder/Executive Director
The Dinerral Shavers Educational Fund

Beth Butler
Community Activist

Ashley Shelton
Director
One Voice Louisiana

Flozell Daniels, Jr.
President & CEO
Foundation for Louisiana

Rev. Dwight Webster, PhD.
Co-Moderator
Justice & Beyond

ANALYSIS, FINDINGS, AND RECOMMENDATIONS

The strategies discussed with interviewees included voter education, community organizing, electoral administration improvements, and more. In addition to addressing strategies to encourage and deepen civic engagement, we broadly discussed other impediments or disincentives to political participation such as the poverty level, Native American issues, the lack of coalitions, and the failure of many school districts to teach civic engagement.

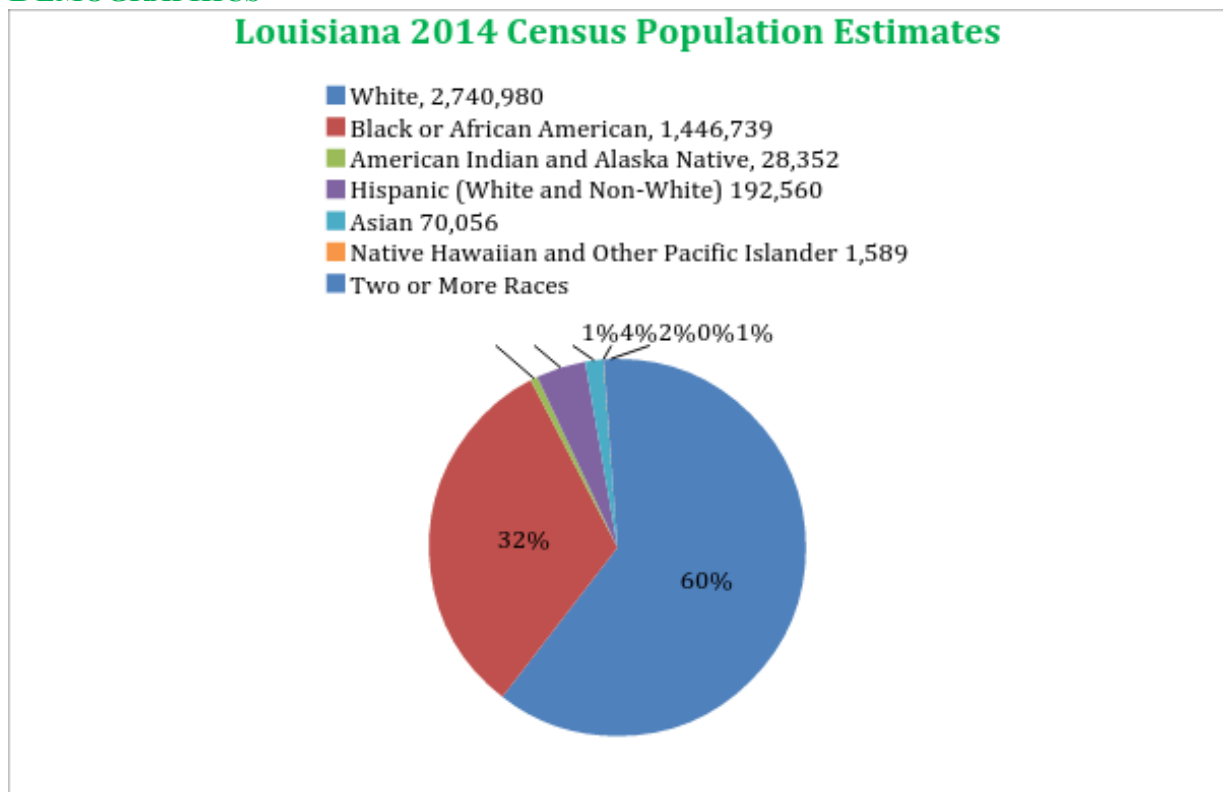
Based primarily on the findings in our interviews and the subsequent literature review for our national research, TJC developed a series of recommended strategies and areas for investment.

LEGISLATION OVERVIEW

Thus far 2015 was a year of stagnation in the Louisiana legislature, as most of the bills being proposed were not adopted. As of the presentation of this report, there have been 19 election bills proposed, but only six enacted as the others failed. Of these enacted six, three are expansive of voting rights while the other three are restrictive. The three restrictive bills placed limits on civic participation by changing dates of elections, requirements for absentee ballots, and further restricting who may run for political office.

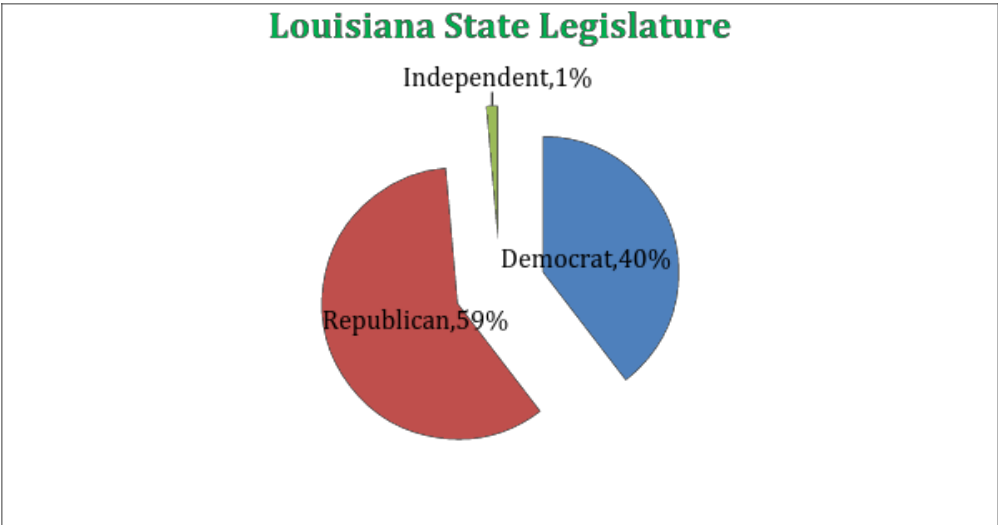
Some categorical highlights of the proposed bills include: no bills affecting voter identification, one bill affecting absentee voting, six bills dealing with registration of voters, and one bill attempting to expand the franchise to people with past felony convictions. The graph on page 5a shows the political breakdown of the state legislature. Below are demographic breakdowns of the general population, and full election legislative categories and status.

DEMOGRAPHICS

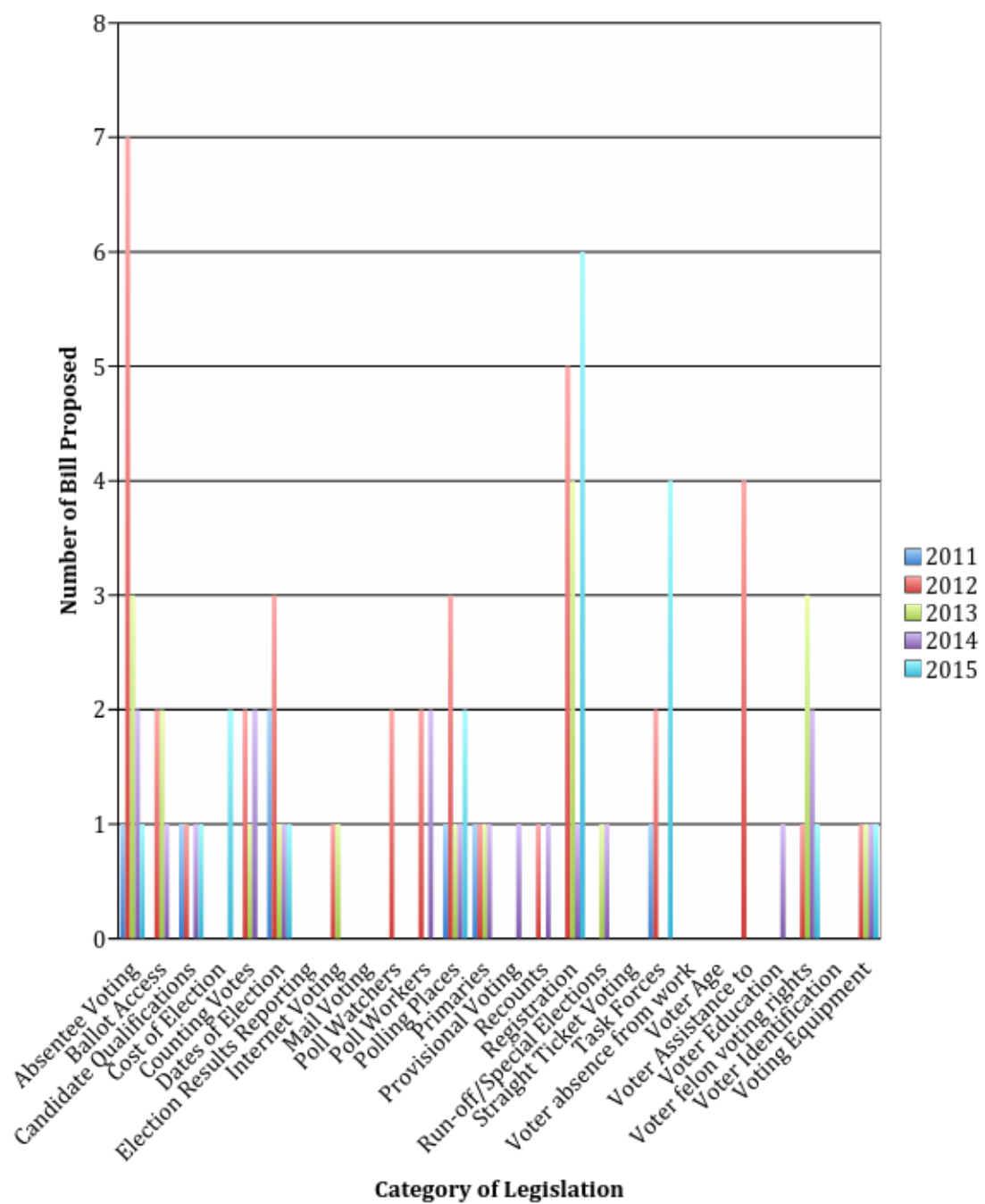


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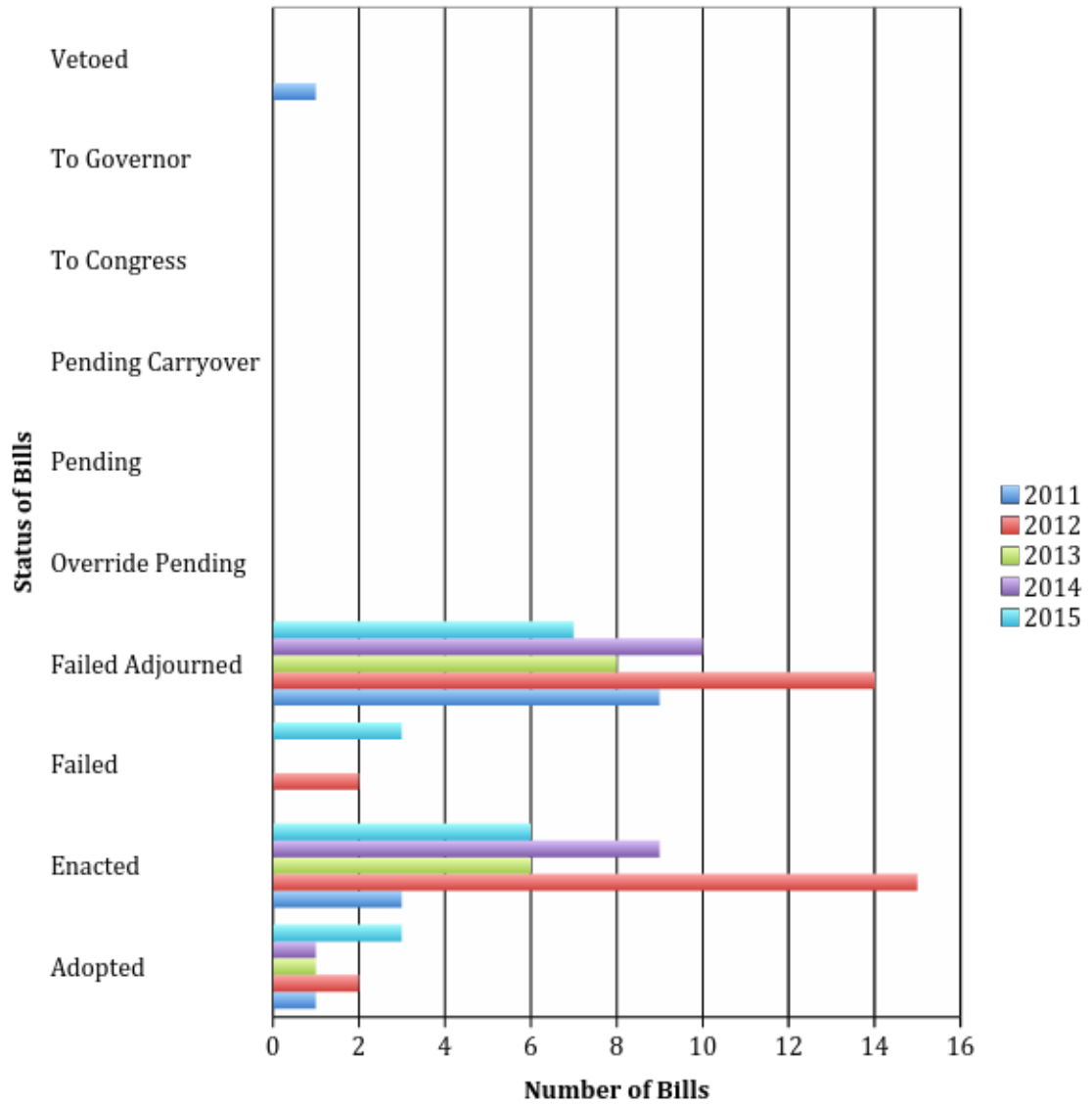
LOUISIANA POLITICAL POWER DYNAMICS

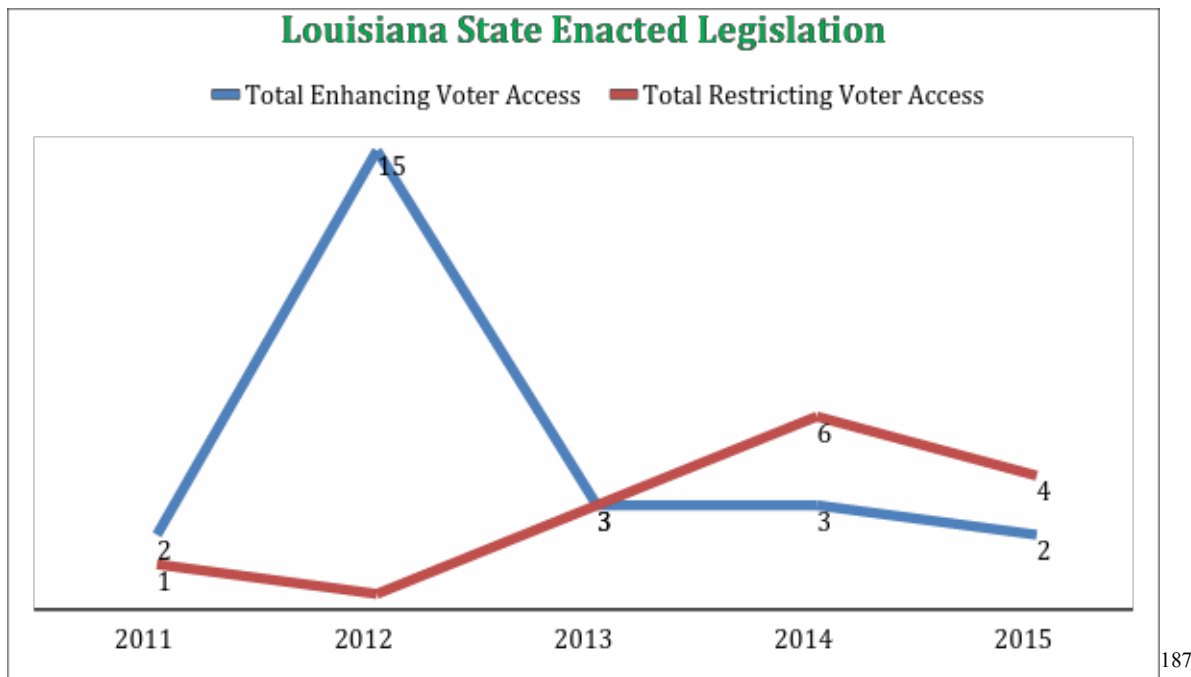


Louisiana State Election Legislation



Louisiana State Election Legislation Status





STRATEGIES FOR INCREASING CIVIC PARTICIPATION

An investment of funds and resources is needed to further civic engagement opportunities in New Orleans. Although there is a strong civic engagement mobilization, these efforts must be further encouraged due the vital nature of the work of these organizations.¹⁸⁸ This ultimately requires an increase in philanthropic support with funds, but also resources, such as expertise, data gathering, and technology assistance. To this end, the following seven strategies are aimed at increasing voter participation:

- **Development of Community Engagement Projects**
- **Creation and Revival of Advocacy Network**
- **Candidate Development**
- **Voter Education**
- **Voter Engagement Program Training for Religious and Non-Partisan Organizations**
- **Ensuring Transparency and Consistency in Election Administration**
- **Engaging Youth and Young Adults**

DEVELOPMENT OF COMMUNITY ENGAGEMENT PROJECTS: Support for civic engagement organization must be continued and further developed in New Orleans. Although there is a considerable amount of opportunities for civic engagement, as it is considered strong statewide,¹⁸⁹ the work must be continued to further develop civic engagement organizations, as they are vital to increasing voter participation. This requires an

investment of resources and funds to identify the key issues on which to engage communities. These issues may include increasing economic opportunities or developing favorable housing policies.

An even more critical area primed to mobilize New Orleans' communities is education, as their *all charter school system* is failing the citizens and their children.¹⁹⁰ Interview participants expressed the community's dissatisfaction with education and pinpointed it as a key area to develop programs.

Regardless of the actual issue utilized to mobilize New Orleanians, civic engagement must center on policy initiatives to mobilize the community. By directly linking the mobilization of communities with the top issues for citizens, like education, civic participation will become more meaningful and substantial.

CREATION AND REVIVAL OF AN ADVOCACY NETWORK: Investing in creating collaborations and coalitions between organizations is necessary to furthering democratic participation in New Orleans. For example, presently there is not a state table in Louisiana promoting coalitions;¹⁹¹ this deficiency should be rectified immediately. As one participant shared there is a strong desire among the civic engagement organizations for partnerships, but, due to the lack of funding and resources in New Orleans, the ability to create such an infrastructure is limited.

Successful partnerships allow for the pooling of resources, the sharing of information, and the development of a comprehensive agenda positively affecting every level of society. Local New Orleans group VAYLA demonstrates the power of meaningful collaborations. While started by Vietnamese residents in the 9th Ward, it has grown into a multiracial organization that advocates and organizes for community empowerment over a range of issues, including voter enfranchisement.¹⁹²

VAYLA is just an example of the type of collaboration that needs to be occurring on the organizational level as organizations continue to suffer under the great amount of work due to the shortage of funding and resources. Deep investments in coalition building is needed as it will allow for sharing resources and the creation of an engaging wide-range policy agenda.

CANDIDATE DEVELOPMENT: There is a need for a concentrated effort on candidate development in New Orleans. This generally means identifying candidates and encouraging their campaigns through galvanizing voter participation. Louisiana has the highest rate of convictions for political corruption in the US.¹⁹³ Presently, as one interview participant shared, many voters are disillusioned with the political process due to the high rate of corruption and often choose to not participate. Creating a pool of good candidates requires an investment in developing well-trained, policy-centered, and accountable contenders. Programs must be created to identify candidates and provide them with the resources to be effective and responsive.

VOTER EDUCATION: Voter education must be a top priority for increasing civic engagement in New Orleans. The electorate must be made knowledgeable about the complete process of voting, including the mechanics of casting a valid ballot, for whom to vote, and what is at stake. Political ignorance is a threat to the very foundation of a democracy,¹⁹⁴ as voters will persistently make decisions that are not in their best interests or the best interest of their community.¹⁹⁵ This is a national problem that is currently being reflected in New Orleans. Voters need to be made aware of the power of the vote in terms of its potential outcomes. To this end, specific tactics need to be developed based on each community's culture as to the best way to clearly and informatively distribute voter information.

One popularly employed tactic is candidate report cards, which succinctly breakdown the policies or agendas of each candidate and gives them a rating. This is a proven method of distributing other types of information, such as the quality of health providers.¹⁹⁶ Regardless of whether this is instituted, voter education needs to be implemented in a way that will be clear, informational, and culturally appropriate to reach each community.

VOTER ENGAGEMENT PROGRAM TRAINING FOR RELIGIOUS AND NON-PARTISAN ORGANIZATIONS: To further civic engagement, an investment must be made in harnessing the influence of the faith-based community in New Orleans. This influence of faith communities cannot be underestimated as they have an unparalleled ability to be a driving force behind community mobilization. As one participant noted, some faith communities are more active than others, therefore efforts must be made to fully engage all faith communities, as their influence may vary in effectiveness. Ways to incorporate faith communities include developing programs to train religious organizations on understanding the political process so as not to lose their nonprofit status and instituting church/synagogue/mosque/temple based voter registration efforts.

As another participant voiced, an emphasis should be placed on creating collaborations that cross religious, cultural, and racial bounds, to employ the total influence of different faith based communities. Coalitions can be formed to influence voters to register or to vote without touching the sectarian lines of each community. Ultimately, faith based communities need to be deployed in their own communities and by means of personal networks to increase civic participation.

ENSURING TRANSPARENCY AND CONSISTENCY IN ELECTION ADMINISTRATION: Dedicating resources to ensuring elections are administered correctly is critical to increasing and sustaining better civic participation. In the aftermath of Hurricane Katrina, the New Orleans electoral infrastructure was decimated.¹⁹⁷ In the immediate aftermath, polling stations were consolidated in major voting centers,¹⁹⁸ which started a trend that is still occurring to this day where smaller precincts are being closed and merged.¹⁹⁹ Due to

this mismanagement and disorganization, as interview participants noted, New Orleanians are discouraged from participating.

There must be an investment in streamlining and reforming the administration of elections. One interview participants noted the ideal system would include checks and balances during elections, which ensure accessibility to the polls and that every vote casted is counted. Another participant suggested streamlining the process to include automatic voter registration allowing for more resources to be dedicated to actual election administration. Ultimately, New Orleans electoral process needs to be reformed to streamline participation.

ENGAGING YOUTH AND YOUNG ADULTS: A concentrated effort must be made to better engage the youth and young adults of New Orleans. In the most recent US Senate elections in Louisiana, it was reported that the youth vote would be the deciding factor.²⁰⁰ The youth must be taught that their vote matters and that it can effect real change in their lives. As one interview participant noted, eligible youth are not voting, because they are not being meaningfully engaged. A means to better engage younger voters is to start early, with a strong civics education foundation.

Developing a civics curriculum that affords students opportunities to experience the political process is fundamental to demonstrating how it affects their lives. This may include attending New Orleans' City Council sessions or running mock elections at school. In addition to strengthening civics education, there needs to be a focus on programs that empowers parents to educate their children. Involving parents and children in the process will allow for youth to be engaged while ensuring that parents are actively participating with them. A concentrated focus on reaching youth is critical to ensuring their civic participation in New Orleans.

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- 197** Bruce Egger, "New Orleans loses 76 voting precincts in post-Katrina tally," *The Times-Picayune* (Feb. 4, 2014), *retrieved from* www.nola.com/politics/index.ssf/2010/02/new_orleans_voters.html.
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STATE OF THE STATE: A VOTING RIGHTS REPORT ON MISSISSIPPI

HISTORIC SNAPSHOT

On June 24, 2014, in the nation's most racially polarized state, Thad Cochran, the Republican incumbent US Senator from Mississippi, narrowly defeated Chris McDaniel, a radio host and tea-party backed state senator known for his extreme and divisive rhetoric, in a runoff election. Cochran won largely, in part, because of Black Democrats.²⁰¹

Mississippi has long been embroiled in racial politics that have discouraged people of color, especially African Americans, from taking part in the political process. In 1962, only 6.7% of eligible Black voters were registered to vote in Mississippi.²⁰² This inequity was the catalyst that launched a nonviolent campaign by civil rights activists to integrate Mississippi's segregated political system in the summer of 1964. The *Freedom Summer* Project's primary mission was to empower local residents to participate in local, state, and national elections. Volunteers and residents were overwhelmed by extreme violence, including bombings, kidnappings, torture, and murder. *Freedom Summer* marked the first time the country's attention was focused on civil rights issues because much of it was covered on national television.²⁰³ The horrific murders of civil rights activists, Medgar Evers, James Chaney, Andrew Goodman, and Michael Schwerner became the focus of global media attention. The *Civil Rights Act* of 1964 and the *Voting Rights Act* of 1965 passed Congress, in part, because lawmakers' constituents had been educated about these issues during *Freedom Summer*.

The galvanization of the Black vote to save a White Republican from political oblivion was reminiscent of the organizing skills and political acumen of Mississippi's Black residents during *Freedom Summer*.

The unexpected and alarming selection of Robert Gray, a Black truck driver, with miniscule political experience, as the candidate for governor by an overwhelming amount in the 2015 Mississippi Democratic primary, illustrates the concern regarding the pendulum state of Mississippi politics.²⁰⁴ The absurdity that Gray himself did not vote in the primary election is bewildering.

The opposition of the mobilization of *Freedom Summer* came in the form of violence, foreclosed mortgages on Black residents' homes, and the refusal to obey federal integration laws. As the resistance to Black political power continues to be particularly hostile, conspiracy theorists have presented a compelling argument that Robert Gray's success was crafted by the tea party as modern day retaliation for Democratic support of Thad Cochran.²⁰⁵ Nothing can rationally explain the unusual success of such a candidate. The various reasons suggested for Robert Gray's success, including uninformed and unprepared voters, a gender bias due to the fact the other two candidates were women, and his being placed first on the ballot, give rise to the need for meaningful civic engagement to overcome the critical fractures in the Mississippi political process.²⁰⁶

This retrograde in the advancement of voting rights demonstrates the continued need for increased civic engagement in Mississippi.

MISSISSIPPI METHODOLOGY

The Transformative Justice Coalition (TJC) undertook qualitative research designed to identify the impediments faced by Mississippi voters' full access to the franchise and voting. Specifically, this literature review and qualitative research sought to identify, explore and make recommendations to ameliorate the major obstacles that preclude people of color (African Americans, Latinos, Native Americans, and Asian Americans) from unfettered and full participation in the franchise.

RESEARCH TEAM

TJC's team, led by founder and Executive Director Barbara Arnwine, included an attorney, Lakeila Stemmons, and two recent law graduates, Halimah Najieb-Locke and Andrew Street.

LITERATURE REVIEW

TJC undertook a literature review that included reports on the current state of civic engagement in Mississippi, reports on voter suppression legislation/laws in the state, polling databases, and national newspapers.

QUALITATIVE RESEARCH & INTERVIEWS

Over a two-day period, TJC founder and Executive Director Barbara Arnwine, assisted by Andrew Street, interviewed 13 prominent social justice leaders and activists across Mississippi. Interviews began in Jackson, MS, where TJC conducted two one-on-one interviews. Two phone interviews were conducted with voting rights and civic engagement leaders in Jackson. In Biloxi, TJC conducted two additional one-on-one interviews and a group interview with the staff of a civic engagement organization.

MISSISSIPPI INTERVIEWEES

Roberta Avila
Executive Director
Steps Coalition

Rose Johnson
Executive Director
North Gulfport Community Land Trust,
Gulfport, MS

Aida Martinez Bone
Executive Assistant & Grant
Manager Steps Coalition

Reilly Morse
President and CEO
Mississippi Center for Justice

Christine Brice
Election Commissioner
Harrison County, Gulfport, MS

Howard Page
Community Organizer and Port
Campaign Coordinator
Steps Coalition

Carol Burnett
Executive Director
Mississippi Low Income Child Care
Initiative/Moore Community House

Kendall Phillips
High School Summer Intern
Steps Coalition

Jennifer Riley Collins
Executive Director
ACLU Mississippi

Carroll Rhodes
Law Offices of Carroll Rhodes

Jennifer Crosslin
Community Organizer
Steps Coalition

ANALYSIS, FINDINGS, AND RECOMMENDATIONS

The strategies discussed with interviewees included voter education, community organizing, electoral administration improvements, and more. In addition to addressing strategies to redress the electoral barriers and money-in-politics obstructions, we broadly discussed other impediments or disincentives to political participation, such as the poverty level, the rural geography of Mississippi, the lack of multiracial coalitions, and the failure of many school districts to teach civic engagement.

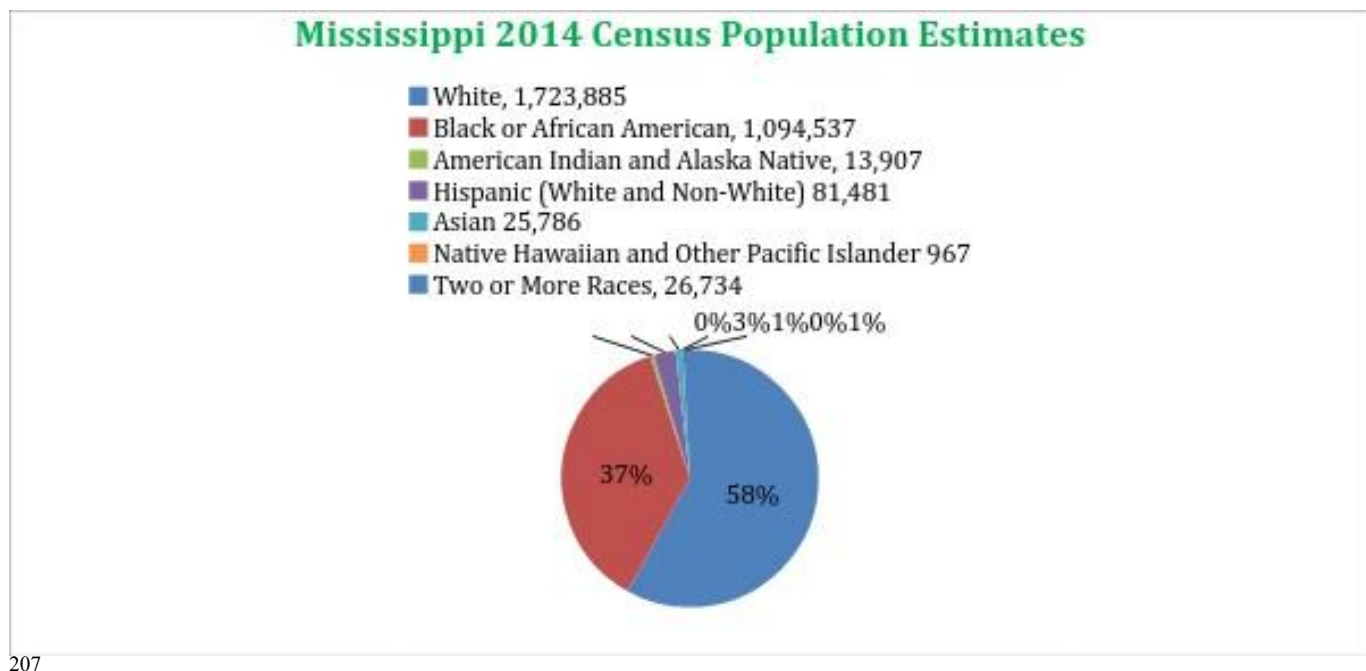
Based primarily on the findings in our interviews and other literature review for our national research, TJC developed a series of recommended strategies and areas for additional inquiry.

This report provides significant insights into the issues and challenges to increasing democratic participation in Mississippi. However, in order to form a richer understanding of these challenges, we recommend conducting further studies in the Delta, where the civic dynamics are vastly different and influenced by poverty and its rural geography.

MISSISSIPPI: LEGISLATION OVERVIEW

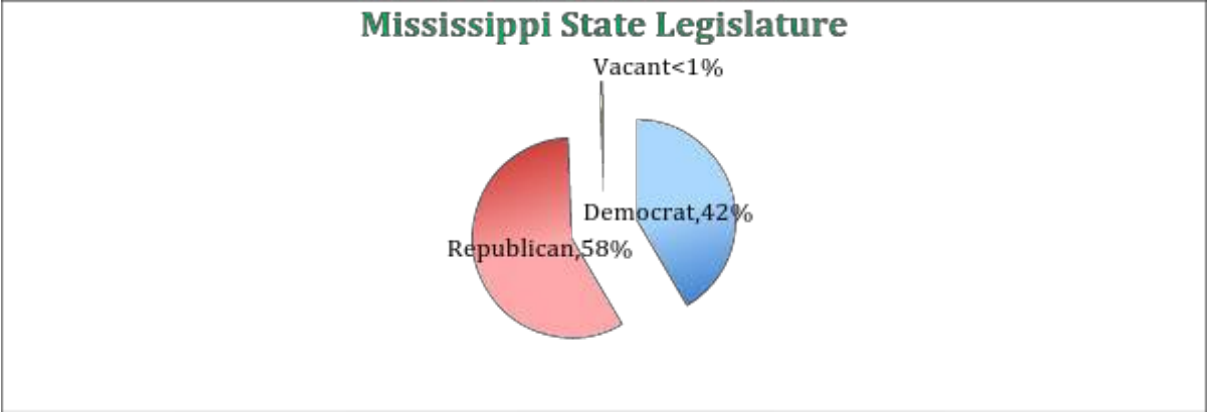
2015 showed little movement in the Mississippi legislature, as most of the bills being proposed were failing. There had been 87 election bills proposed, but none (0) enacted because they failed on the floor. Some categorical highlights of the proposed bills include: no bills affecting voter identification, four (4) bills affecting absentee voting, and eleven (11) bills dealing with registration of voters. Below are demographic breakdowns of the general population, makeup of the legislature, and full election legislative categories and status.

MISSISSIPPI: DEMOGRAPHICS



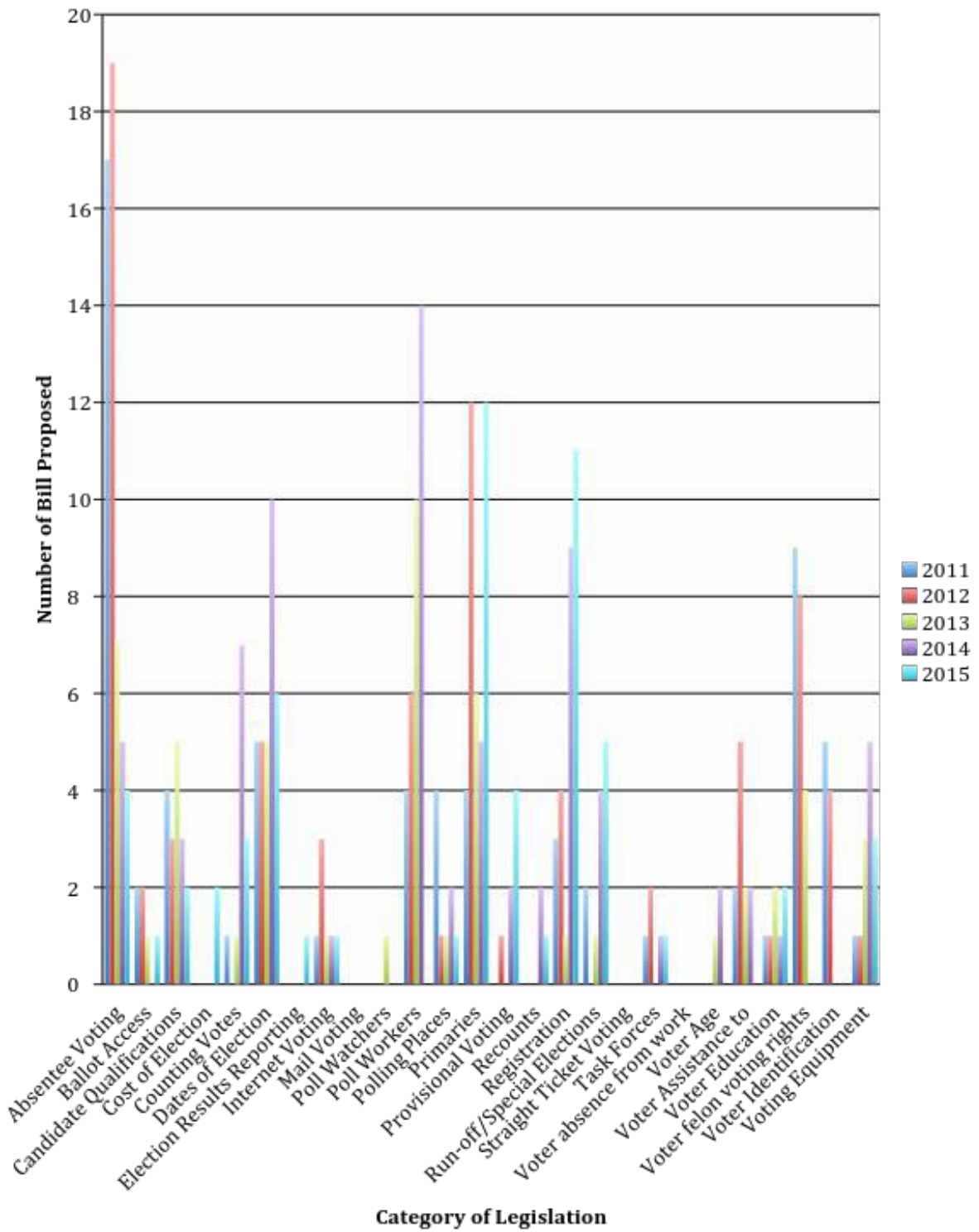
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MISSISSIPPI: POLITICAL POWER DYNAMICS

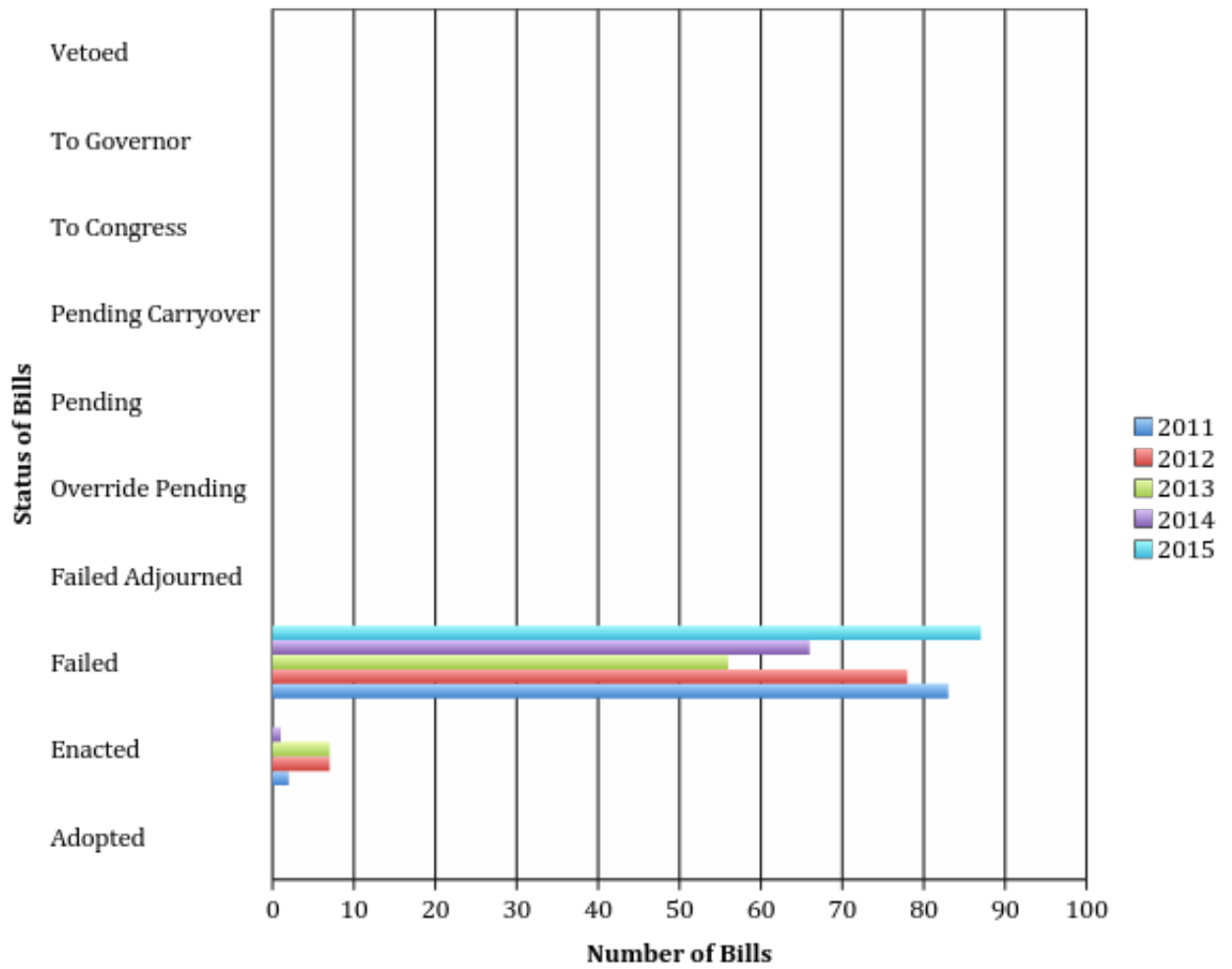


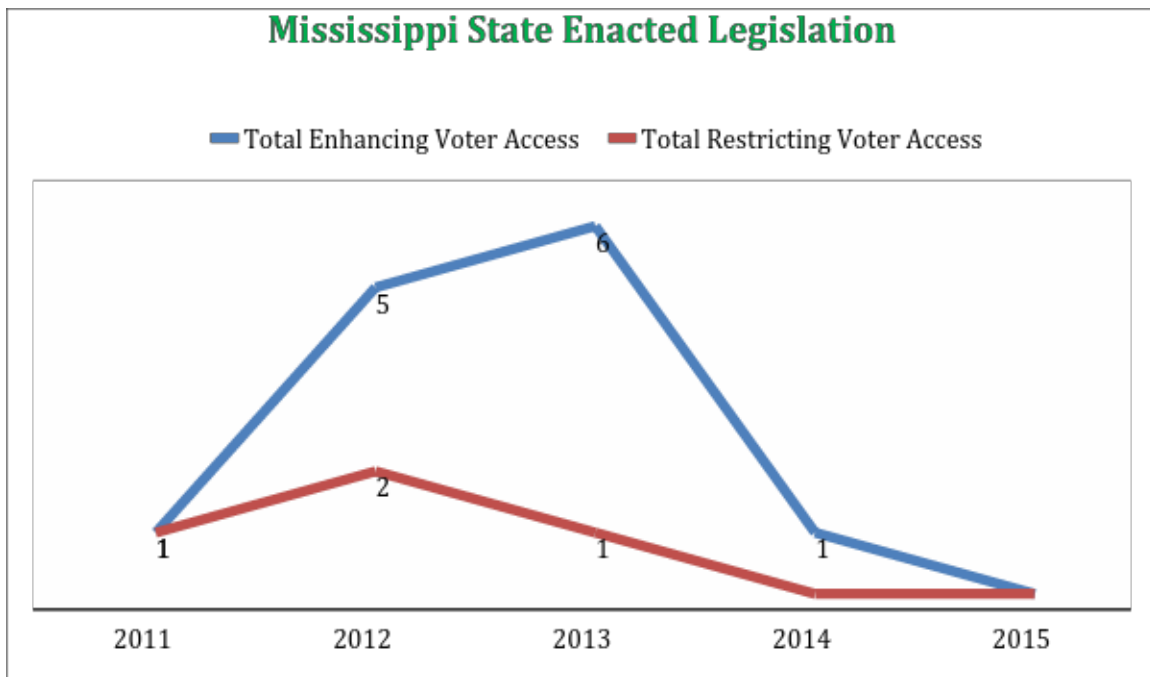
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Mississippi State Election Legislation



Mississippi State Election Legislation Status





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MISSISSIPPI: STRATEGIES FOR INCREASING CIVIC PARTICIPATION

While voter suppression legislation, such as voter ID laws, create barriers to citizen participation in Mississippi and litigation has been the primary way to oppose this, the true need is for increased civic engagement.²¹² Philanthropic efforts supporting racial and human rights organizations, such as civic engagement groups, are on the decline. This ultimately affects the ability of civic engagement groups to mobilize Mississippians through successful programming.²¹³ However, the following strategies, developed from interviews conducted with Mississippian leaders and civic engagement groups, address where investments of funds and resources need to be made to encourage voter participation. Based on the interviews, the following eight key strategies were developed:

- **Long Term Investment in Community Organizing**
- **Community Outreach/Programs**
- **Voter Education**
- **Felon Enfranchisement/Reaching Incarcerated Individuals**
- **Election Monitoring**
- **Good Candidates**
- **Investment in Various Communities**
- **Statewide Collaboration**

LONG TERM INVESTMENT IN COMMUNITY ORGANIZING: A long-term investment in developing community organization is key to encouraging civic participation. This long-term investment requires the time and funds to allow civic engagement groups to recruit leaders and develop effective programs that can motivate communities to harness their collective power to effect real change. As organizations play a critical role in boosting voter participation,²¹⁴ it stands to reason that the stronger the organization, the more effective it is. For organizations in Mississippi, there needs to be a greater investment of resources. A key area of investment is increasing the technological capacity of community organizations, because Mississippi is primarily a rural society and a stronger tech capacity may overcome the barriers of understanding new voting processes.²¹⁵

Another ripe area for investment is historically black colleges and universities (HBCU). Mobilizing HBCU students and graduates into community organizing and using their expertise to serve the communities needs to be a priority to enhance civic engagement. Currently, in Mississippi, there are organizations becoming a part of small communities, building meaningful relationships, and engaging the communities' needs. The East Biloxi Community Collaborative is an excellent example of effective community organizing, because they have instituted effective civic engagement programs and have strong local leaders to motivate community participation.²¹⁶ This type of community organizing needs to be replicated throughout Mississippi, but requires a considerable investment of time and funds to train staff dedicated to the work of producing meaningful programs.²¹⁷

COMMUNITY PROGRAMS: Effective programming is critical to the success of community organizing. Although it is essential to have community organizers creating programs and developing leaders, the long-term investment is irrelevant when programs are not effective. One participant shared the success of a program called "lunch and learning."²¹⁸ The program provides lunch to community members to encourage attendance at meetings, which allows organizers to share critical information about upcoming votes and policy changes. Other successful programs include a voter registration drive, where they exceeded their goal of 20,000 voters by registering 25,000 voters.²¹⁹ Furthermore, 73% of these newly registered voters this organization gathered actually voted. These meetings often precede a local political meeting, allowing for organizers to encourage attendees to go to the meeting by travelling in a group. The program's coordinator states that it was, and continues to be, effective as a means to encourage participation in the local community. Accordingly, investment in effective programs, such as the "lunch and learning" program, is key to engaging the Mississippi electorate.

VOTER EDUCATION: Voter education is necessary to increasing voter participation in Mississippi. Voter education was a central tenet of the Civil Rights Movement, motivating field workers to go into communities, not only to register voters, but also to teach them the importance of participation and about the issues of the day.²²⁰ Programs as simple as citizenship schools were instituted to teach illiterate voters how to read to bypass literacy tests.²²¹ The Civil Rights Movement demonstrates that voter education programs are

required for successful voter participation. To this day, it is ranked as a priority among Mississippians.²²² To be effective, voters must be educated in a way that overcomes the impediments to participation, such as language barriers and general unawareness. Furthermore, despite its importance and history of success, the ability to conduct voter education programming is limited by a deficit in funding and dedicated resources.²²³ A focus should be made on creating opportunities and curriculum to help educate Mississippians on how to use their vote to push relevant issues.

ENFRANCHISEMENT OF THOSE WITH PAST FELONY CONVICTIONS/REACHING THE

INCARCERATED: The enfranchisement of people with past felony convictions is necessary for increasing democratic participation in Mississippi. In Mississippi, those convicted of felonies may completely lose their right to vote.²²⁴ Those who do not lose the right to vote and want restoration of their voting rights must enlist a state representative to write a bill restoring their right.²²⁵ According to data analyzed between 2000 and 2010, there were 127,346 people disenfranchised because of their past felony convictions, but only 106 occurrences of voting right restorations.²²⁶ Mississippi places further limits on inmates incarcerated, but not convicted, by obstructing their right to vote through tactics such as blocking the use of mailed ballots.²²⁷ Ultimately, Mississippi must overturn the legislation disenfranchising those with past felony convictions and pass legislation that streamlines the restoration process to increase voter participation.

ELECTION MONITORING: Heightened election monitoring is necessary to increase democratic participation in Mississippi. Presently, local elections in Mississippi are fraught with misconduct where polling stations suffer from poor management and the inability to provide voters with accurate information.²²⁸ In general, election monitoring is considered weak in Mississippi and primed for improvement.²²⁹ One interview participant shared a personal story about how, due to poor management of voting records, her granddaughter was unjustifiably placed on an inactive voters list and was excluded from voting at her precinct. Additionally, the election process is further mismanaged by the proliferation of inaccurate information. Voters who attempt to exercise their vote are given bad instructions, which may lead to their vote not being counted.²³⁰ For example, if a voter attempts to vote at the wrong precinct, they are either allowed to vote and their ballot is eventually thrown out or they must vote by affidavit. To alleviate the mismanagement of elections in Mississippi, there should be an investment in local election monitoring advocacy, which will ensure that polling stations are managed correctly and accurate information is given to voters.

RECRUITING AND TRAINING GOOD CANDIDATES: An investment must be made in developing policy-centered principled Mississippian political candidates that are willing to represent the needs of the community above their own and to ultimately gain wins that inspire citizen participation. Presently, Mississippi's progressive representatives face little to no opposition, and elections often turn into coronations.²³¹ Even Black representatives, as part of one of the largest state Black caucuses in America,²³² have left an unfilled

promise of meaningful social change in Mississippi. Despite their proportionally strong numbers, Black representatives have failed to utilize their strength to push legislation that is responsive to the needs of disadvantaged communities, much less, using their strength to filibuster prohibitive conservative legislation.²³³

Though civic engagement groups may have access to the legislature, they are unable to turn that access into influence.²³⁴ To move beyond this, there must be an investment in candidates that will be responsive to the electorate that can guarantee legislative wins that demonstrate the candidate's effectiveness.²³⁵ This requires a concerted effort to develop candidate-training programs prior to elections that provides support for their candidacy and teaches them how to be effective as state representatives, but also drives home the importance of being responsive to the electorate.

INVESTMENT IN ALLIED COMMUNITIES: Political change in Mississippi requires the creation of coalitions that cross race, gender, and class boundaries. Although Black Americans are 37% of the electorate and consistently support progressive causes, transformative change requires recruiting allies.²³⁶ The few progressive Whites are likely concentrated in two major cities: Oxford, as they are associated with the University of Mississippi, and Jackson, the state capitol; thereby, their ability to influence local politics is limited.²³⁷ Therefore, there must be an investment in creating meaningful allies. Significantly, the investment in creating progressive allies does not require a complete consensus, but merely entails enough of a consensus to tip the majority.²³⁸

One interview participant suggested a project based on Ben Jealous' report "True South Unleashing Democracy in the Black Belt 50 Years After Freedom Summer" called the 13% Project. The program would target other disadvantaged groups, such as minorities and women, to create a policy-centered coalition of progressive voters based on shared interests. Regardless of whether this specific project is instituted, creating strategic alliances formed in shared policy goals across demographic groups is necessary to further the progressive cause.

STATEWIDE COLLABORATION: Statewide collaboration of civic engagement organizations is necessary to engage the electorate. Although there are many civic engagement groups in Mississippi, there is no infrastructure for promoting a statewide collaboration.²³⁹ Furthermore, with the exception of the NAACP, no groups have the ability to institute statewide programming alone in Mississippi.²⁴⁰ This is ultimately to the detriment of many organizations, as they may have exceptional and effective programs working in their local communities, but lack the resources to conduct a statewide program. Efforts are being made to rectify this deficiency: One Voice, a C4 nonprofit, implemented a communication table that is currently utilizing shared resources to engage the public.²⁴¹ However, a statewide table for non-profit organization is still necessary to harness the collective power of the organization, as such collaborations allow for the pooling of resources and the sharing of

information. Specific organizations to invest in collaborating for enhanced civic engagement include, among others, the Magnolia Bar Association, the Mississippi Center for Justice, the ACLU, and the Mississippi Association for Justice. Partnership on this level, and among these types of organizations is not happening; so, an investment of funds and resources must be made in Mississippi to create an infrastructure premised on statewide collaboration.

²⁰¹ Robert Costa & Philip Rucker, Cochran beats McDaniel in nail-biter in Mississippi, The Washington Post (June 25, 2014), *retrieved from* www.washingtonpost.com/politics/in-hard-fought-mississippi-primary-cochran-fights-to-hold-off-tea-party-challenger/2014/06/24/a7262c08-fbcc-11e3-b1f4-8e77c632c07b_story.html.

²⁰² Ben Jealous, True South Unleashing Democracy in the Black Belt 50 Years after Freedom Summer, Center for American Progress 14 (June 2014), *retrieved from* https://cdn.americanprogress.org/wp-content/uploads/2014/06/TrueSouth_crrx0401.pdf.

²⁰³ *Id.*

²⁰⁴ The Associated Press, "Robert Gray doesn't vote, wins Mississippi Democratic Governor nomination" (Aug. 6, 2015), *retrieved from* www.al.com/news/index.ssf/2015/08/robert_gray_doesnt_vote_wins_m.html.

²⁰⁵ Brian Powers, "WTF happened to the Mississippi Democratic Party?" Deep South Daily (Aug. 7, 2015), *retrieved from* www.deepsouthdaily.com/2015/08/wtf-happened-to-the-mississippi-democratic-party.html.

²⁰⁶ *Id.*

²⁰⁷ Retrieved from <http://www.census.gov/quickfacts/table/RHI125214/28>.

²⁰⁸ Retrieved from <http://www.legislature.ms.gov/Pages/Contact.aspx>.

²⁰⁸ Retrieved from <http://www.ncsl.org/research/elections-and-campaigns/2011-2013-elections-legislation-database.aspx>.

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ TJC Mississippi Interview (AUG. 6, 2015).

²¹³ Election Administration 30-State Capacity Report for State Voices, Grassroots Solutions, 116 (Sept. 18, 2014).

²¹⁴ Kenny J Whitby, Impact of organizational vitality on Black voter turnout in the South, 21 Party Politics 234 (2015).

²¹⁵ TJC Mississippi Interview (2015).

²¹⁶ *Id.*

²¹⁷ Our Network, State Voices, *retrieved from* www.statevoices.org/tables/our-network/. Election Administration, 117.

²¹⁸ TJC Mississippi Interview (2015).

²¹⁹ *Id.*

²²⁰ Voter Education Project, Civil Rights Movement Veterans, *retrieved from* www.crmvet.org/tim/timhis61.htm#1961vep.

²²¹ Citizenship Schools, Civil Rights Movements Veterans, *retrieved from* www.crmvet.org/tim/timhis54.htm#1954ccs.

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- 223 *Id.*
- 224 State Felon Voting Laws, ProCon.org, *retrieved from* felonvoting.procon.org/view.resource.php?resourceID=000286#mississippi (last update July 15, 2014).
- 225 *Id.*
- 226 Christopher Uggen, Sarah Shannon, & Jeff Manza, State-Level Estimates of Felon Disenfranchisement in the United States, 2010, The Sentencing Project 14 (July 2012), *retrieved from* felonvoting.procon.org/sourcefiles/2010_State_Level_Estimates_of_Felon_Disenfranchisement.pdf.
- 227 TJC Mississippi Interview (2015).
- 228 *Id.*
- 228 Election Administration, 117.
- 229 Tyson King-Meadows & Thomas F. Schaller, Devolution and Black State Legislators: Challenges and Choices in the Twenty-first Century 57 (2012).
- 230 TJC Mississippi Interview (2015).
- 229 Tyson, 57.
- 230 TJC Mississippi Interview (2015).
- 231 Election Administration, 117.
- 232 TJC Mississippi Interview (2015).
- 233 *Infra*, Demographics.
- 234 TJC Mississippi Interview (2015).
- 235 Jean Hardisty, Between a Rock and a Hard Place: Race and Child Care in Mississippi, Wellesley Center for Women 31 (2013), *retrieved from* www.jeanhardisty.com/wp-content/uploads/2013/09/Hardisty_Race_and_Childcare_Report_Oct_2013_final.pdf.
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- 238 One Voice Mississippi, *retrieved from* uniteonevoice.org/ovms/.

STATE OF THE STATE: A 2015 VOTING RIGHTS REPORT ON MICHIGAN

HISTORICAL SNAPSHOT

Michigan's phenomenal history of being an innovative leader in the auto industry, manufacturing and technology is undeniable. Unfortunately, the innovation and forward thinking that once lauded Michigan as a pioneer has abruptly stopped. In the 2004 general election, Republican state senator John Pappageorge boldly asserted, "[i]f we do not suppress the Detroit vote, we're going to have a tough time in this election."²⁴² Even more recently, Michigan is in the national spotlight as numerous cities and school districts in the state are now run by a single, state-appointed "dictator" that functions as both the mayor and legislator, as permitted under its signature emergency management legislation pushed through by Governor Rick Snyder ²⁴³.

The prestige of birthing the forward thinking process of registering voters when they obtained their driver's license, now known across the United States as the motor-voter law²⁴⁴, has been soiled by the state's aggressive balance-the-books style of governance. While this legislation was an attempt to conventionalize Michigan's form of austerity politics, it also served as a vehicle to loot more than half of the state's African American residents of their local voting rights in 2013 and 2014.²⁴⁵

With a legacy of innovative leadership, Michigan's slack response to modernizing elections and providing greater access to voting to its citizens compared to other states is distressing. From the finding of illegal voter caging practices of the Michigan Secretary of State²⁴⁶, allegations that the city of Hamtramck failed to comply with its language assistance requirements under Section 203 of the *Voting Rights Act*²⁴⁷, and an attempted closure of a Secretary of State Branch office in Buena Vista Township²⁴⁸, the integrity of elections in Michigan is under attack.

The response from prominent advocates, scholars, experts, activists, members of the nonprofit sector and other organizations across the state of Michigan is one of urgency. An increasing chorus of voices are calling for increased access to the ballot. The integrity of elections in Michigan is dependent upon every eligible voter being able to register and cast their ballot.

MICHIGAN METHODOLOGY

The Transformative Justice Coalition (TJC) undertook qualitative research designed to identify the impediments faced by Michigan voters' full access to the franchise and voting. Specifically, this literature review and qualitative research sought to identify, explore and make recommendations to ameliorate the major obstacles that preclude people of color (African Americans, Latinos, Native Americans, and Asian Americans) from unfettered and full participation in the franchise.

RESEARCH TEAM

TJC's team, led by founder and Executive Director, Barbara Arnwine, included an attorney, Lakeila Stemmons, and two recent law graduates, Halimah Najieb-Locke and Andrew Street.

LITERATURE REVIEW

TJC undertook a literature review that included reports on the current state of civic engagement in Michigan, reports on voter suppression legislation/laws in the state, polling databases, and national newspapers.

QUALITATIVE RESEARCH & INTERVIEWS

Over a two-day period, Lakeila Stemmons interviewed 18 prominent social justice leaders and activists across Michigan. TJC conducted seven one on one interviews while in Michigan and hosted a breakfast reception at the local Detroit Branch of the NAACP, where we were able to interview eleven voting rights and civic engagement leaders.

MICHIGAN INTERVIEWEES

Rev. Dr. Wendell Anthony
President
Detroit Branch NAACP

Harold D. Pope
Shareholder
Jaffe Raitt Heuer & Weiss

The Honorable Dennis Archer
Former Michigan Supreme Court Justice
Mayor Emeritus, Detroit, MI

Michael Steinberg
Legal Director
ACLU Michigan

The Honorable John Conyers, Jr.
U.S. House of Representatives
Michigan's 13th Congressional District

Branden Snyder
Organizing Director
Michigan Director

Stephanie Lopez Gilmore
Consortium of Hispanic Agencies

Rashida Tlaib
Community Partnerships &
Development Director
Sugar Law Group

Samia Hamid
Field Director, Arab American Civil Rights
League

Theresa Q. Tran
Executive Director
Asian & Pacific Islander American-
Vote
Michigan

Chui Karega
General Counsel
Detroit Branch NAACP

Reginald M. Turner
Member
Clark Hill PLC

D. Duron Marshall
Chief of Staff
U.S. House of Representatives, The Honorable
Brenda Lawrence

Hester Wheeler
Member, Executive Committee
Detroit Branch NAACP

Kary Moss
General Counsel
Michigan ACLU

Donnell White
Executive Director
Detroit Branch NAACP

Mary Carmen Munoz
Operations Manager
Las SED

Yvonne White
President
NAACP Michigan State Conference

ANALYSIS, FINDINGS, AND RECOMMENDATIONS

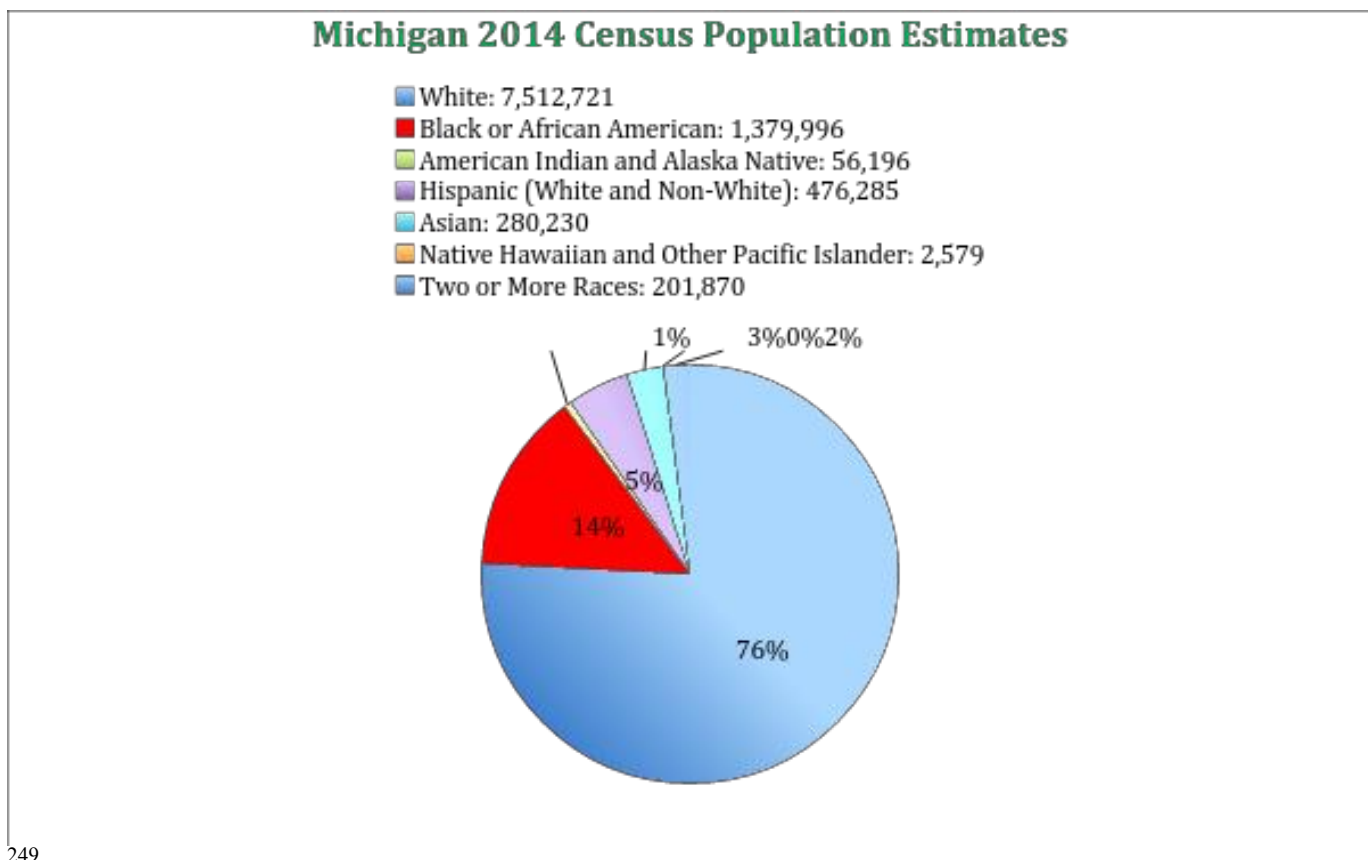
The strategies discussed with interviewees included voter education, community organizing, electoral administration improvements, and more. In addition to addressing strategies to redress the electoral barriers and money-in-politics obstructions, we broadly discussed other impediments or disincentives to political participation such as the poverty level, the rural geography of Michigan, the lack of multiracial coalitions, and the failure of many school districts to teach civic engagement.

Based primarily on the findings in our interviews and other literature review for our national research, TJC developed a series of recommended strategies and areas for additional inquiry.

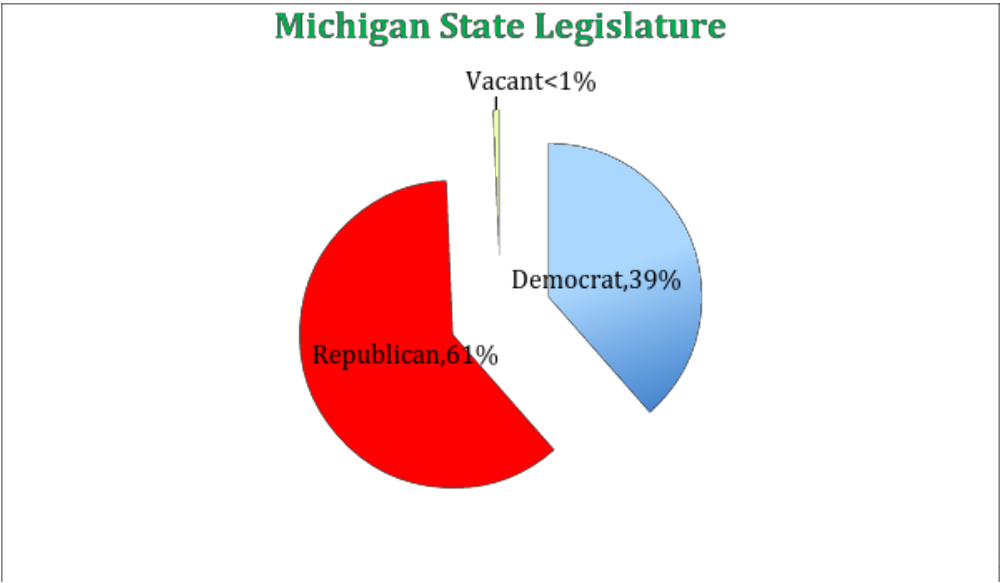
MICHIGAN: LEGISLATION OVERVIEW

Election legislation was at a standstill in the Michigan legislature with most of the bills proposed in 2015 were still pending. In 2015, there have been 37 election bills proposed, but only nine enacted, and the other 28 were pending. Of these enacted nine, four are expansive of voting rights while the other five are restrictive. The five restrictive bills provided for changes to primary and election dates. This was deemed restrictive as changing the dates of primary and elections critically affects voters' knowledge and preparation. Some categorical highlights of the proposed bills include: no bills affecting voter identification, one bill affecting absentee voting, four bills dealing with registration of voters, and eighteen bills affecting poll workers. Below are demographic breakdowns of the general population, makeup of the legislature, and full election legislative categories and status.

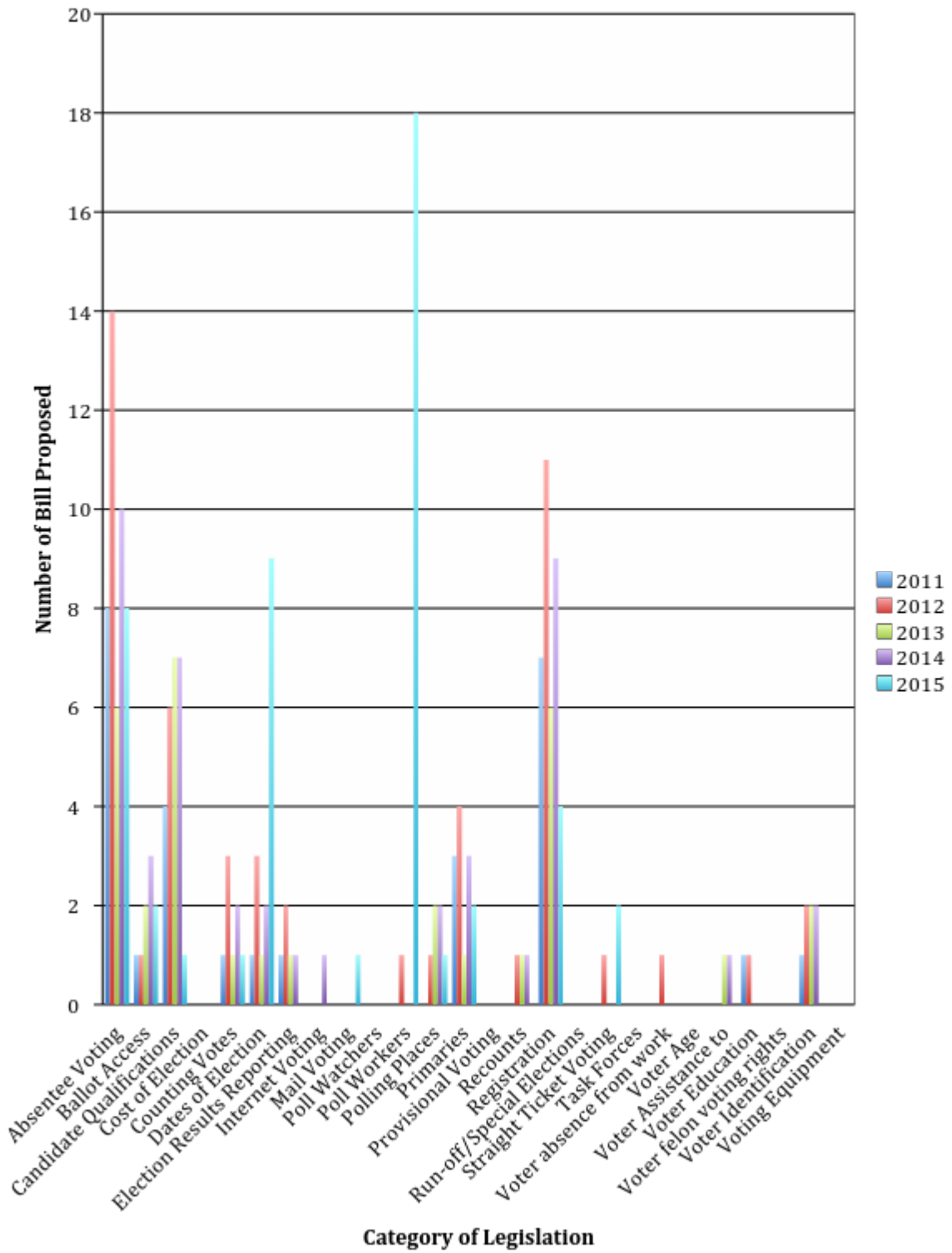
MICHIGAN: DEMOGRAPHICS

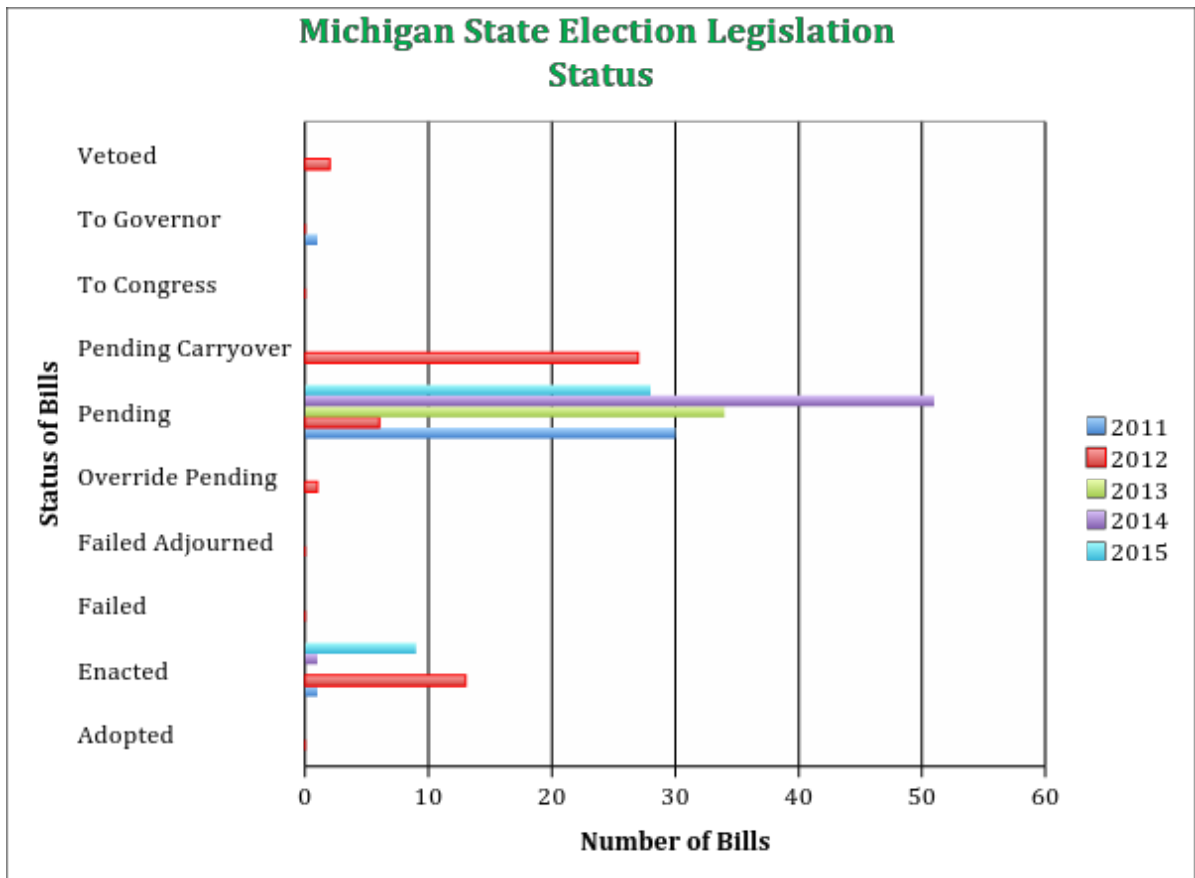


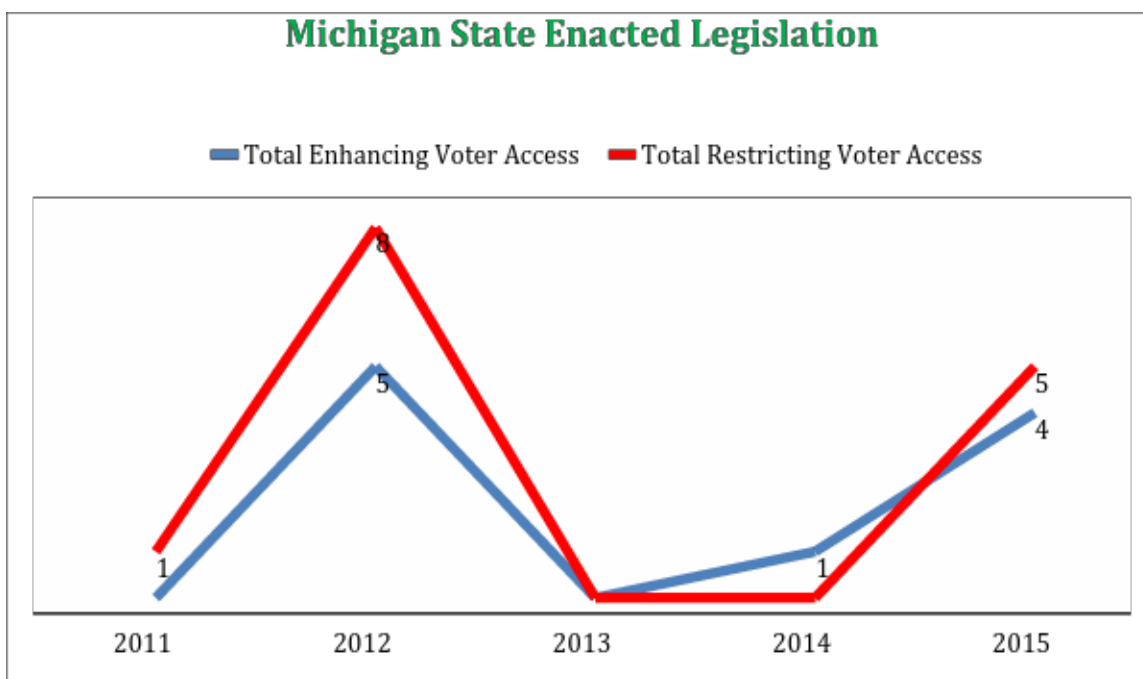
MICHIGAN: POLITICAL POWERDYNAMICS



Michigan State Election Legislation







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MICHIGAN: STRATEGIES FOR INCREASING CIVIC PARTICIPATION

The effective defense and expansion of the equal right to vote requires a two-part strategic approach: the dismantling of voting barriers and the promotion of civic engagement. Illustrative of this approach are six key strategies that require further support and investment. Those key strategies include:

- **Voter Education**
- **Increased Minority Engagement**
- **Communications**
- **Organization Coalition Building**
- **Candidate Development**
- **Investment in Civic Engagement Groups**

VOTER EDUCATION: There is a need to build stronger capacity for voter education programs in Michigan. An informed voter is the cornerstone of an effective democracy. Voter ignorance only places the democracy and its citizens in jeopardy.²⁵⁴ When voters do not understand the issues, then they are unable to protect their interests.²⁵⁵ This is a focus area that requires a sustained and well-funded investment.

There are, however, efforts taking place in Michigan to institute voter education programs that must be continued and replicated. For example, in 2012, the Kalamazoo Public School

system allowed the local chapter of the League of Women Voters to hold a simulation of upcoming general election for local high school students.²⁵⁶ The mock election had the real candidates, Barack Obama and Mitt Romney, and utilized voting machines from Kalamazoo's polling stations.²⁵⁷ Furthermore, the instructors directed the students to study the candidates and their campaign pledges and stands of the policy issues prior to voting.²⁵⁸ The intervention was so successful that the League of Women Voters was given a \$2,500 grant for further voter education initiatives.²⁵⁹ Although, this is just one example of a successful voter education program, this and similar programs need to be conducted all across Michigan for every voter. The program captures the foundation of voter education by providing opportunities to learn about the issues and to practice voting.

Ultimately, a continued investment is needed to generate creative and interactive programming that will increase voter education opportunities for the citizens of Michigan. Given the high level and constantly evolving suppressive tactics of challenger groups, it is imperative to be sufficiently engaged in the front-end work that could blunt these efforts.

INCREASED MINORITY ENGAGEMENT: Michigan must continue to invest in programs that tear down the barriers to minority participation. It is reported that by 2060, the chance of randomly selecting two Michiganders from completely different ethnic and racial backgrounds will increase from the current 39% to 60%. Conversely, Michigan's African American population is on the decline: between 2000 and 2010, there was a decrease of 50,000 African Americans in Detroit.²⁶⁰ This demonstrates that, although Michigan may have an increasingly diverse population, steps must be taken now to engage minority communities to combat the barriers to actualizing their full political power; ultimately ensuring that every Michigander may fully participate in the political process, but especially minorities.

Voting administration failures are occurring that limit language minorities' political power. For example, in 2011, Hamtramck, Michigan was required by the *Voting Rights Act* to provide voting materials in Bengali because the Bengal community had grown greater than five percent of the voting-age population.²⁶¹ However, during the November 2012 general election, many polling sites, in direct violation of the *VRA*, failed to provide Bengali ballots, make translated materials available, or provide interpreters.²⁶² They instead provided a translated sign of the *Michigan Voter Bill of Rights*, which had nothing to do with voter rights.²⁶³ Furthermore, voting machine scanners would not read the translated Bengali ballots because duplicate ballot numbers in English existed which made it seem as though Bengali voters had already cast votes.²⁶⁴ Whether insidious or not, this story serves to demonstrate that investments must be made to ensure that emerging language minority populations are not hampered by the voting process or outside actors, such as polling machines or managers. They must be empowered to use their growing political power to effect change in their community.

COMMUNICATIONS: Efforts must be increased in Michigan to create a strong capacity to effectively communicate with the public to increase civic participation. If voters are not aware of the issues in play in each election, then they will never know how to participate or may not even want to participate. This requires an investment of resources and funds to create a stronger communications infrastructure.

The dissemination of information about relevant civic issues in Michigan is generally considered strong; yet, organizers see the necessity to expand the capacity for more robust communications.²⁶⁵ An interview participant suggested that a diversity of messengers and communication platforms must be employed to reach the broad spectrum of the electorate and that civic engagement groups should incorporate this type of messaging into their own programs.²⁶⁶ This ultimately requires a specific understanding of the culture of every subgroup, which calls for research to identify the most effective medium of communication, the creation of an infrastructure to support it, and dedicated staff to implement it.

Although the means of communications and its target audiences may vary, there must be a significant investment in building the capacity of all civic engagement groups to communicate timely, accurate, and relevant information concerning voting and social issues to the public. This can be accomplished most efficiently if there is a shared suite of messaging resources that groups can incorporate into their own programs and tailor for their audiences.

ORGANIZATION COALITION BUILDING: Michigan civic organizations are under resourced and too understaffed to be able to handle the aggressive assault on voting rights prevalent in the state, which begs the need for coalition building. A major obstacle to ongoing collaboration is that the groundwork to educate the community on voting issues is laid in major election years, but there is not enough capacity to follow through with the planning.

While grassroots engagement and issue messaging did not rate at the bottom, there was consensus that progress beyond maintenance of the status quo requires increased capacity in these areas, and that more resources in Michigan should be focused on strategic planning. The absence of a shared election administration strategy was widely seen as a major roadblock to advancing a holistic agenda to defeat regressive bills and policies and making state elections more participatory.²⁶⁷

Sharing strategies on how to dismantle the structural blockades present in the elections process is of utmost importance for civic groups in Michigan. There needs to be widespread support to develop roundtables for the benefit of the civic organizations and the electorate.

CANDIDATE DEVELOPMENT: There is a need for a concentrated effort of candidate development in Michigan. An investment must be made in developing policy-centered

principled candidates who listen to the issues presented and propose legislation in response. For example, election officials are important in countering the charge that reform is costly, cumbersome, difficult, or prone to fraud. They provide important statistics and studies that highlight the registration gap, cost of voter registration, problem with poll worker recruitment, and how early/absentee voting takes pressure off the process. However, their impact is limited if they are not supported by elected officials of the state to enact vital changes needed to improve the process. The need for elected officials who are responsive to the real election challenges faced by those on the voting front lines calls for more rigorous candidate development. Candidate-training programs should be ongoing and provide support for candidates that enables them to be effective as city and state representatives, and gives each candidate the knowledge and skills that they will need to be responsive to the electorate.

INVESTMENT IN CIVIC ENGAGEMENT GROUPS: Voter suppression laws, coupled with the flood of corporate and special interest money post-*Citizens-United*, is creating a situation where our democracy has been flipped on its head. We have special interest fueled politicians manipulating election laws to choose their voters as opposed to voters exercising their civic voice to choose their representative. There must be a counter movement to this level of manipulation and investment in civic engagement groups is the clearest path to successfully challenging these corrupt actors.

A successful civic engagement campaign will require the full spectrum of progressive pro-democracy advocates to join together in a coordinated campaign. It is going to take environmental groups, labor organizations, people of color and women civil rights groups, women's choice organizations, and LGBT groups talking to their voters about why expanding access to the ballot is important to them.

The threat of challengers to voting rights makes it even more important that we have educated and empowered voters who will not be deterred by deceptive tactics and know the procedures to report voting malfeasance. Investing in civic organizations positions the fight to expand the franchise on equal grounds with the already well-funded regressive movement.

²³⁹ Chip Reid, "Voting suppression charges on the rise," NBC News (Oct. 13, 2004), retrieved from www.nbcnews.com/id/6242175/#.VdX_XINViko.

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²⁴⁴ Michael J. Hanmer, *Discount Voting: Voter Registration Reforms and Their Effects* (2009).

²⁴⁵ *Phillips v. Snyder*, No. 13-11370 (E.D. Mich. 2013).

²⁴⁶ *United States Student Association Foundation v. Land – Order*, ACLU, retrieved from <https://www.aclu.org/legal-document/united-states-student-association-foundation-v-land-order>.

²⁴⁷ Asian American Access to Democracy in the 2012 Elections, Asian American Legal Defense Fund (2013), retrieved from aaldef.org/Access%20to%20Democracy%20Report%202012.pdf.

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STATE OF THE STATE: A VOTING RIGHTS REPORT ON NEW MEXICO

HISTORICAL SNAPSHOT

It is of historical significance to note that the first testing of an atomic bomb on July 16, 1945 was not dropped from an airplane, but successfully detonated on the ground in southern New Mexico at what is now known as the Trinity Site²⁶⁸.

On the heels of the July 2015 70th Anniversary commemorating the historic first atomic bomb test, the range of emotions from citizens across the state of New Mexico vary from pride to anger.²⁶⁹ The test of the bomb forever changed the world. It was a milestone for science and is credited with assisting the United States in winning World War II.²⁷⁰ However, the residents of Tularosa, a historic Hispanic village that sits 40 miles downwind from the site of the blast, believe they have paid the ultimate price as they unknowingly participated in the world's largest experiment.²⁷¹

The Tularosa residents claim the residual radioactive material propelled into the upper atmosphere following the nuclear blast caused a cancer spike that has affected virtually every family in town and claimed nearly 300 lives.²⁷² A 2010 report from the Centers for Disease Control showed that levels of radiation around the first nuclear test were nearly 10,000 times the usual limit for public areas.²⁷³

While the National Cancer Institute has announced plans to assess the extent of exposure that took place after the original test²⁷⁴, many Tularosa residents say the study comes 70 years too late.²⁷⁵

In hopes of gathering health information from their area, Tularosa residents created a grassroots organization called the Tularosa Basin Downwinders Consortium.²⁷⁶ The Downwinders lobbying efforts include demanding an apology from the government and insisting on their inclusion in the Radiation Exposure Compensation Act (RECA).²⁷⁷ Passed in 1990, the Act awards between \$50,000 and \$100,000 to miners, participants, and residents from communities near about 200 nuclear test sites²⁷⁸. Under RECA, the federal government has paid more than \$750 million in restitution to uranium workers on nearly 8,000 claims. But in order to receive compensation, workers have to have been employed before 1972 — the year the federal government stopped purchasing uranium for its nuclear arms build-up. No other New Mexico residents were included in the bill.²⁷⁹ This gross omission includes the many New Mexico uranium miners who have long suffered from abnormally high rates of lung cancer from exposure to the radon gas in poorly ventilated underground mines.²⁸⁰ The people of Tularosa Basin have requested that President Obama visit their community, as he has done with the people of Japan, to hear their perspective on the effect of the testing of the bomb there.

The egregious and systematic assault on the New Mexican environment by big industry

miners and drillers came wrapped with the promise of jobs and a better life.²⁸¹ This oxymoronic dynamic places New Mexicans in a catch-22. Eligible voters find themselves torn between supporting politicians who support big industry mining and their promises of job creation²⁸² or politicians who will fight against big industry mining in support of environmental justice and risk losing jobs. The reality, however, for many doesn't involve a decision at all because New Mexico has one of the highest unemployment rates in the United States. Involvement in civic participation falls low on the list priorities behind basic survival needs.

NEW MEXICO METHODOLOGY

The Transformative Justice Coalition (TJC) undertook qualitative research designed to document the impediments faced by New Mexico voters' full access to the franchise and voting. Specifically, this literature review and qualitative research sought to identify, explore, and make recommendations to ameliorate the major obstacles that preclude people of color (African Americans, Latinos, Native Americans, and Asian Americans) from unfettered and full participation in the franchise.

This report is divided into two sections. Section 1 addresses the overall voting rights history and challenges faced by New Mexico voters. Given the customary practice to ignore the unique voting rights challenges facing Native Americans, Section 2 looks exclusively at the voting rights landscape for New Mexico's significant Native American population. This section was developed through a listening session convened with Native American legal, policy, and advocacy experts.

RESEARCH TEAM

TJC's team, led by founder and Executive Director Barbara Arnwine, included an attorney, Lakeila Stemmons, and two recent law graduates, Halimah Najieb-Locke and Andrew Street.

LITERATURE REVIEW

TJC undertook a comprehensive literature review, which included reports on the current state of civic engagement in New Mexico, review of legislation/laws in the state, polling databases, and national and local news reporters.

QUALITATIVE RESEARCH & INTERVIEWS

Over a three-day period, TJC conducted four group interviews at the W.K. Kellogg Foundation office in Albuquerque, New Mexico. The group interviews were conducted with representatives from immigrants, children's workers, civil and voting rights, labor; democratic practice; public health, environmental justice; and staff members from the Kellogg Foundation.

NEW MEXICO INTERVIEWEES LIST

Claudia Benavidez
PB&J Family Services

Pamelya Herndon
Executive Director & Attorney
Southwest Women's Law Center

Javier Benavidez
Executive Director
Southwest Organizing Project

Eric Jantz
Staff Attorney
New Mexico Environmental Law Center

Sara Berger
Attorney

Jordon Johnson
Coordinator
McKinley Community Place Matters

Kay Bouenkaeu
Executive Director
New Mexico Asian Family Center

Norton Kalishman, MD
Former NM Dept. of Health Chief
Medical Officer Consultant
W.K. Kellogg Foundation

Susannah Burke
Executive Director
PB&J Family Services

Rachel Lazar
Executive Director
El Centro de Igualdad y Derechos

Yael Cannon
Professor
University of New Mexico Law School

Javier Martinez
State Representative & Attorney
New Mexico House of Representatives &
Partnership for Community Action

Kara Inae Carlisle
Director of New Mexico Programs
WK. Kellogg Foundation

Liz McGrath
Executive Director
Pegasus Legal Services for Children

Tara Ford
Legal Director
Pegasus Legal Services for Children

Douglas Meiklejohn
Executive Director
New Mexico Environmental Law Center

Maria Gallegos
Policy Analyst
New Mexico Health Equity Partnership

Jill Von Osten
Volunteer Consultant
South West Women's Law Center

Jim Harvey
PB&J Family Services

SECTION 1: NEW MEXICO VOTING RIGHTS LANDSCAPE

ANALYSIS, FINDINGS, AND RECOMMENDATIONS

The strategies discussed with interviewees included voter education, community organizing, electoral administration improvements, and more. In addition to addressing strategies to encourage and deepen civic engagement, we broadly discussed other impediments or disincentives to political participation such as the poverty level, Native American issues, the lack of coalitions, and the failure of many school districts to teach civic engagement.

Based primarily on the findings in our interviews and the subsequent literature review for our national research, TJC developed a series of recommended strategies and areas for investment.

We believe this report provides significant insights into the issues and challenges currently faced in New Mexico. However, in order to form a comprehensive understanding of these challenges, an in depth analysis of experiences of Asians, Native Americans, and undocumented immigrants in New Mexico is required.

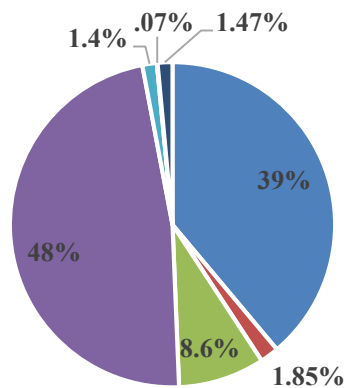
NEW MEXICO: LEGISLATION OVERVIEW

The New Mexico 2015 State legislature did not have much movement with election legislation because most of the bills being proposed have failed. There were 26 election bills proposed, only one enacted as law and one passed by the legislature and waiting to be signed into law. The enacted bill is expansive of voting rights as it adds electronic registration elements. Some categorical highlights of the proposed bills include: three bills affecting voter identification that failed, one bill affecting absentee voting, eight bills dealing with registration of voters, and no bills attempting to expand the franchise to people with past felony convictions. Below are demographic breakdowns of the general population, makeup of the legislature, and full election legislative categories and statuses.

NEW MEXICO: DEMOGRAPHICS

New Mexico 2014 Census Population Estimates

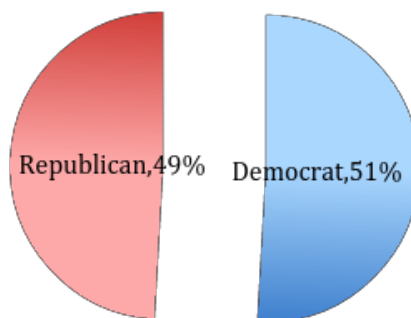
- White: 811,400
- Black or African American: 38,598
- American Indian and Alaska Native: 179,298
- Hispanic (White and Non-White): 994,151
- Asian: 29,957
- Native Hawaiian and Other Pacific Islander: 1,486
- Two or More Races: 30,682



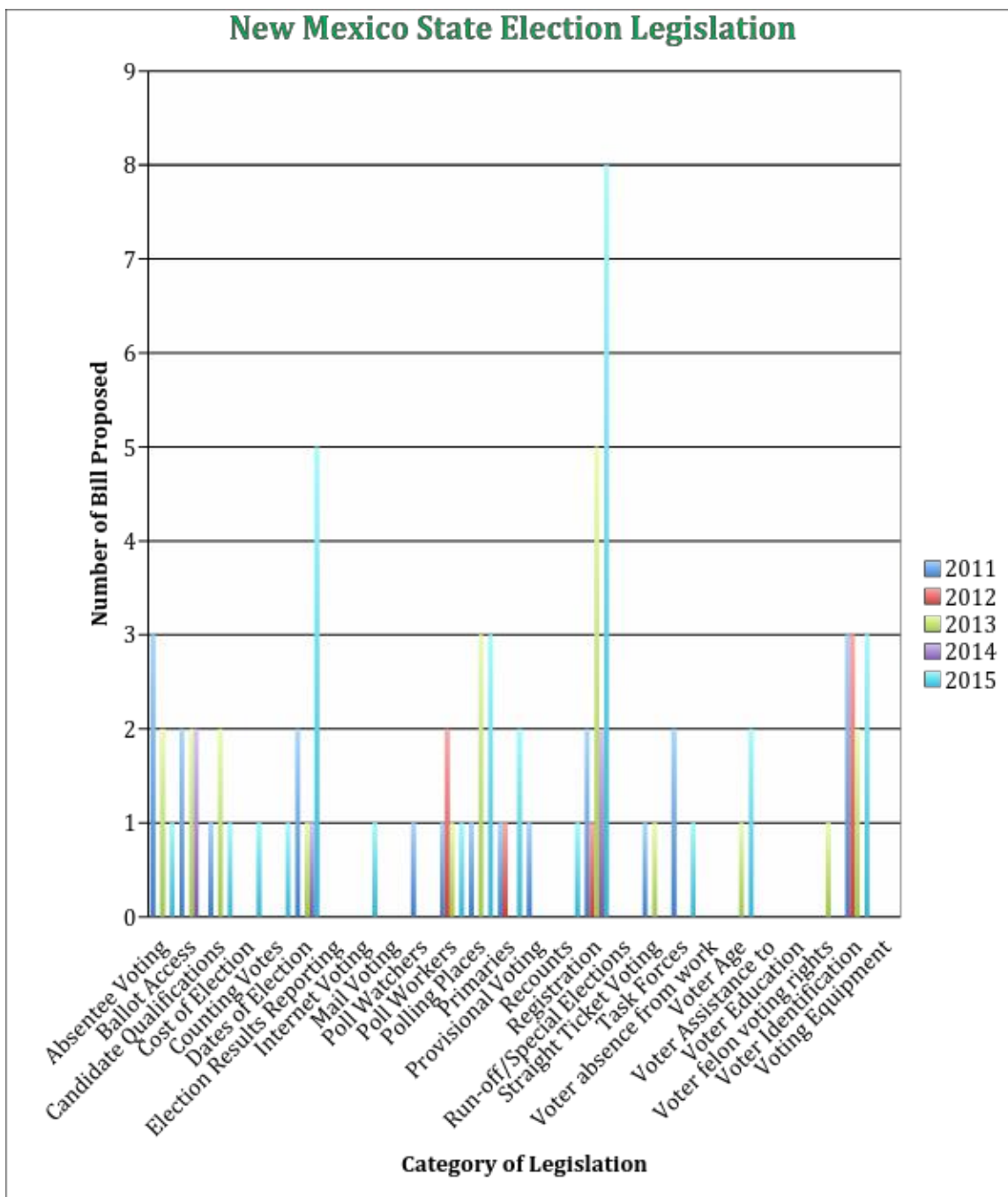
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NEW MEXICO: POLITICAL POWER DYNAMICS

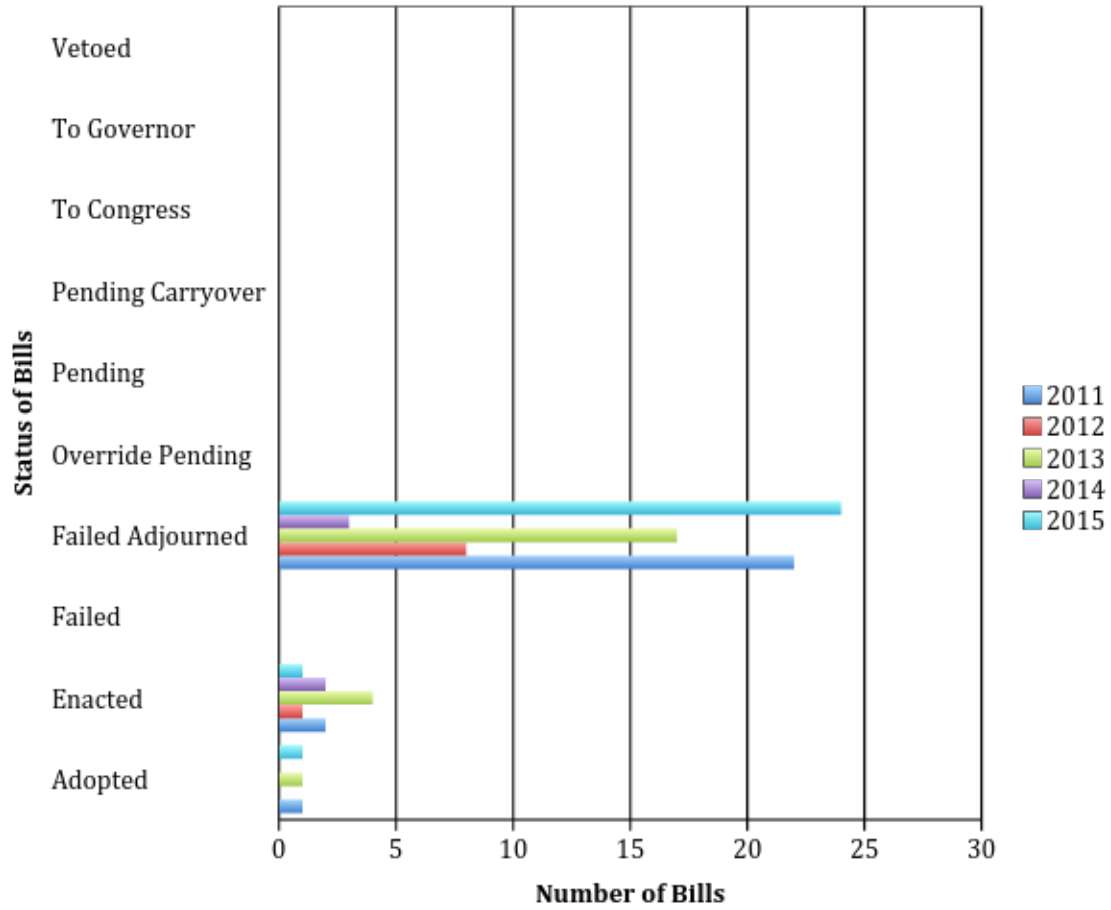
New Mexico State Legislature



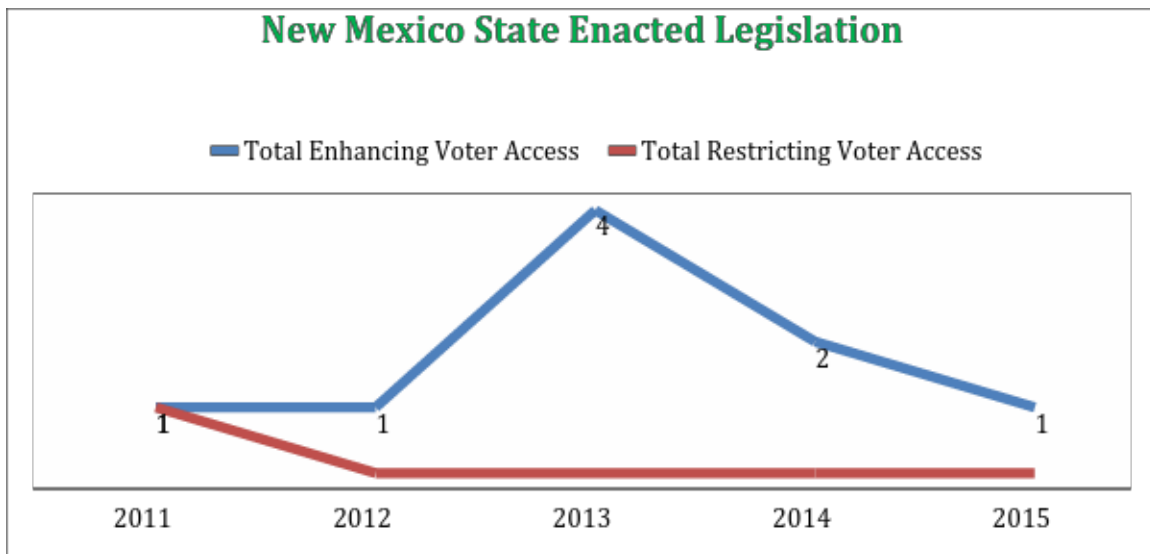
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New Mexico State Election Legislation Status



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NEW MEXICO: STRATEGIES FOR INCREASING CIVIC PARTICIPATION

The primary barriers to civic participation in New Mexico are structural and environmental. The following strategies are areas that require a further investment of funds and resources to ultimately increase civic participation. Some strategies include:

- **Organizational Investment**
- **Investment in Organizational Collaborations**
- **Creating an Infrastructure for Minority Collaboration**
- **Voter Education**
- **Investment in the Political Process**
- **Voter Registration and GOTV**
- **Engaging Communities**
- **Investing in Social Advocacy**

ORGANIZATIONAL INVESTMENT: The cornerstone of encouraging citizen participation is investing in the civic engagement infrastructure. One interviewee noted that it is civic engagement organizations, not communities, which are leading the charge for increasing voter participation.²⁸⁸ To better situate organizations to be most effective, one interviewee suggested an investment in an organizational infrastructure that relied on leadership development, candidate development, public policy development, and strong communications of the relevant political issues. This structure would aid in organizations moving from being transactional to being transformative. Furthermore, the organizational structure must be able to sustain year round civic engagement, rather than a brief concentration on the national election cycle. However, creating such structure will require a long-term commitment to the investment of funds and other resources.

INVESTMENT IN ORGANIZATIONAL COLLABORATIONS: Investing in collaborations is fundamental to ensuring the success of the organization's purpose. Presently, New Mexico has a nonprofit state table called the New Mexico Civic Engagement Table, which coordinates collaboration between New Mexican civic engagement groups.²⁸⁹ The New Mexico Civic Engagement Table was noted as having a very strategic and thoughtful approach to the work done by its partnership groups.²⁹⁰ However, there are opportunities for the table to better define its role as an organization dedicated to coordinating election efforts.²⁹¹

CREATING AN INFRASTRUCTURE FOR MINORITY COLLABORATION: Along with investing in creating meaningful collaborations between organizations, multi-coalitions need to be formed. New Mexico has a critical problem with inter- and intra- racism between Latinos, Native Americans, and Pueblo communities. This ultimately is detrimental to effective democratic participation, because, if these communities collaborated, they could be more effective in creating meaningful civic movement. There should be a great investment in overcoming the racism preventing these groups from working together and, ultimately, an investment of resources and funds in an infrastructure to secure the collaboration.

VOTER EDUCATION: An investment is required in educating voters on the political process and the importance of democratic participation. The present dismal state of civic education in New Mexico is critically impacting participation, because citizens are uninformed about the issues and unable to make policy-centered decisions in selecting candidates. An example of the poor state of education is the effective disenfranchisement of Native Americans, as many suffer from confusion as to whether their participation in tribal elections prevents their participation in state and national elections. A concentrated effort on generally educating the New Mexican electorate, specifically Native Americans, needs to be conducted.

INVESTMENT IN THE POLITICAL PROCESS: There needs to be an investment in creating a more functional political process in the New Mexican government. New Mexican state representatives do not receive pay. This limits their effectiveness because they must dually govern and earn a living. The lack of governing resources critically hampers the ability of state representatives to be effective in their roles, as they do not have the support to draft legislation and build coalitions. Furthermore, with the 30/60-day legislative cycle, state legislatures' ability to push through substantial legislation is often limited due to the short timeframe of the legislative session and large volume of legislation. Candidates need to know how to draft legislation and facilitate meaningful collaborations. This means there must be an allocation of funds for training in these areas to ensure representation is as effective as possible, even given the time limitations of the sessions.

VOTER REGISTRATION AND GOTV: There needs to be an investment in legislatively streamlining the voter registration and the GOTV efforts. Interviewees stated there is a need to increase opportunities for New Mexicans to register and vote. Currently, long lines plague voters and intimidate poll managers. Voters live great distances away from polling stations, as New Mexico is a rural state, which impacts the accessibility of the franchise. Furthermore, as voter registration currently closes 28 days prior to the general election, opportunities for New Mexicans to register to vote are severely hindered. Automatic registration and same-day registration were suggested as solutions for easing the voter registration process. Early voting mobile sites that are able to travel into rural communities would increase the opportunities for locals to participate and create greater focus for GOTV efforts.

ENGAGING COMMUNITIES: An emphasis must be placed on outreach to specific communities in terms of leadership development and mobilization. There is a growing Asian community in New Mexico that is primed for organization. However, the general perception of Asians as the model minority, coupled with language barriers and intergenerational dynamics, discourage youth leadership in the Asian community. Beneficial initiatives would include concentrated efforts on leadership development, voter registration, and overcoming language barriers that impede the political process.

Greater opportunities for women to participate in the democratic process need to be created, as this is a sector that is under-engaged. For example, as with most of America, New Mexican women are disproportionately affected by wage inequality. This could potentially be a cause to rally women across race and cultural lines to create legislation addressing the wage gap. Steps need to be taken to mobilize women to participate in the political process as voters and candidates, which ultimately hinges on voter education and leadership development. Along the same lines as gender engagement, youth engagement needs to start early with strong civic courses and a concentrated effort to demonstrate that youth voters matter. To better engage younger citizens, there should pre-registration opportunities to register, in conjunction with civic classes and automatic registration upon reaching the majority age.

INVESTING IN SOCIAL ADVOCACY AND INDIVIDUAL AGENCY: A general investment must be made in advancement for social causes in New Mexico. New Mexico has one of the highest rates of unemployment and poverty in the United States.²⁹² Additionally, as a border state, New Mexico has a fair amount of undocumented immigrants seeking a path to citizenship. These social forces must be addressed proactively to achieve the mission of lifting people out of poverty, and as a means to increase voter participation. When a New Mexican's day-to-day life is a matter of survival, voting ranks low on their list of priorities. There must be an investment in social advocacy, extending beyond voter engagement, to increase civic participation generally so that there is more awareness of the electorate. Anecdotal evidence suggests that an individual's capacity to advocate for themselves and their community is correlated to their own financial and social stability.

The strategy for changing patterns of civic participation must include a long-term track for studying how health and wellness, financial stability, and asset building affect individual agency and civic participation. Creating a New Mexico where there are employment and economic opportunities and clear paths to citizenship will only broaden and encourage the franchise.

SECTION 2: NEW MEXICO: NATIVE AMERICAN VOTING RIGHTS & POLITICAL PARTICIPATION

The fight for the vote for Native Americans has been an on-going and arduous uphill battle against hostility, marked by the imposition of numerous obstacles and barriers that serve to deny this fundamental right. The *Indian Citizenship Act* of 1924 granted citizenship to indigenous people in the United States who had not otherwise been afforded that right. However, not all Native Americans who were granted citizenship rights under the *1924 Act* enjoyed full citizenship and suffrage rights. By 1938, seven states continued to refuse to grant Native Americans voting rights. Discrepancies between federal and state control provided loopholes in the *Act's* enforcement. States justified discrimination based on state statutes and constitutions. Three main arguments for Indian voting exclusion were: Indian exemption from real estate taxes; maintenance of tribal affiliation; and, the notion that Indians were under federal government guardianship or lived on lands controlled by federal trusteeship. By 1947, all states with large Indian populations, except Arizona and New Mexico, had extended voting rights to Native Americans who qualified under the *1924 Act*. Not until 1948, over two decades after the passage of the *1924 Act*, did these states withdraw their prohibitions on Indian voting and then only because of a judicial decision.

However, despite this record, there has been no *Native American Voting Rights Act*, and no Congressional hearings or testimony to support such a bill. Paradoxically, there continues to be many efforts on or near reservations to keep Native Americans from registering to vote and to keep them from voting. There have been dozens of lawsuits filed against county voter registrars, county commissioners, and state officials over denying Indians the right to vote.²⁹³

Given the very unique issues surrounding the challenges and opportunities for Native American Voting Rights in New Mexico, this section is devoted exclusively to a summary of these special matters confronting this major voting constituency. A great amount of the information provided herein is based on a listening session held on October 29, 2015 with Native American leaders, legal experts, and those familiar with the unique challenges confronting Native American voters. In addition, some independent historical and demographic research was conducted.

To effectively explore Native American voting rights in New Mexico, there are 15 areas of special consideration:

1. The long standing hostility and indifference from the county and local elected officials, in certain parts of New Mexico, to Native American voting in local, state, and federal elections;
2. The important role of tribal sovereignty for the Native American nations in New Mexico;
3. The recognition of Native American nations as indigenous peoples entitled to human rights protections, especially that of self-determination;
4. The significant engagement of Native Americans in tribal elections (in the minority of New Mexican tribes that hold elections);
5. The need for greater Native American participation in federal elections than in state and local elections (not tribal), as a result of: the historic and present day indifference; the perceived irrelevance of state and local elections to the needs of the tribal and the Native communities; and, the outright hostility, in some local jurisdictions, toward Native American voting participation;
6. The issues of language barriers and the state's and counties' inability or unwillingness to significantly address the need for multilingual ballots, interpreters, and election information;
7. The rural isolation and distance from polling places and voter registration opportunities;
8. Poverty;
9. Voter suppression;
10. The lack of sufficient legal protection of Native American voting rights, especially post-*Shelby*, and the expiration of pre-existing voting rights consent decrees;
11. The justifiable distrust by many Native Americans of social, political, and philanthropic systems, which have too often been exploitive or otherwise failed to respond to Native and tribal issues and concerns;
12. Traditional *civic engagement alone* is an incomplete strategy, given the lack of issues affecting Native Americans on local ballots and the lack of engagement by political candidates;
13. The influence of money, (specifically differing political engagement for tribes and tribal leaders with gaming profits);
14. The critical power of tribal leaders in encouraging Native American voter participation; and,

15. The power of Native American voters to impact local, state, and federal elections in New Mexico.

In discussing the obstacles to free and unfettered access to voting for Native Americans and the possible solutions for expanding voter participation in local, state, and federal elections, this summary will touch upon these 15 areas.

SHORT BACKGROUND: A LONG AND SORDID HISTORY OF HOSTILITY TO THE NATIVE AMERICAN VOTE

Notably, throughout its history, the State of New Mexico has demonstrated hostility and indifference to the voting rights of Native Americans. Prior to the arrival of Caucasians in New Mexico, there were thriving, rich, and diverse cultures of dozens of Native American nations.

First invaded by the Spaniards and their allies who waged war on the Native American populations, many of the indigenous people of New Mexico were either forcibly removed, slaughtered in battles, enslaved, or killed by diseases. Originally a vast landmass called New Mexico (named after the Mexican-American War and Treaty of Guadalupe Hidalgo in 1848), the territory was divided into eight states including the area now known as the State of New Mexico.

Under the United States, laws and practices of racial and ethnic segregation and bigotry treated African Americans, Latinos,²⁹⁴ and Native Americans with exclusion, exploitation, and disrespect. Broken treaties, repeated warfare, the horrific, forced, genocidal Long Walk of the Navajo, enslavement, land theft, the pitting of Indian nations against each other and the paternalistic federal case law towards Native Americans, all have left a bitter legacy for Native Americans in New Mexico. Millions of promised acres of land were stolen from Native Americans because of the rich mineral resources contained therein.

Native Americans were banned from voting in state and federal elections in New Mexico until 1948. However, due to overt and systemic discrimination as well as general suspicion and unfamiliarity, Native Americans did not begin to vote in federal, state, or local elections until the 1960's. This disenfranchisement has particular importance given that Native Americans comprise 10.6% of the population of the State. Despite New Mexico having the 2nd highest percentage of Native Americans of all the states, only 7 Native Americans currently serve in the New Mexico legislature and no Native American has ever been elected to a statewide or Congressional office in New Mexico. In 2014, there were 128,000 Native American eligible voters in New Mexico; but, only 66,147 of them were registered to vote; and, still, only 26,160 of them voted in the general elections. There are 23 tribes located wholly or partially in New Mexico including the Navajo Nation, 19 Pueblo tribes, and three Apache tribes/nations. Each of these is situated in different geographic regions throughout the State. Each Native American nation has a unique history and culture which has made the denial of voting rights more complicated and daunting to challenge. Every step forward for Native American voting rights has been a fight.

MAJOR OBSTACLES CONFRONTING NATIVE AMERICANS IN NEW MEXICO IN EXERCISING VOTING RIGHTS AND POLITICAL PARTICIPATION IN 2015

Failure to Respect Sovereignty of Tribal Nations by Federal, State, and Local Election Officials. Overriding every aspect of Native American voting rights is the issue of sovereignty. Each individual tribe, nation, and pueblo is recognized by the federal government as a sovereign government with unique and inherent powers of self-determination and self-government. In many cases, state law does not apply to Native Americans on tribal trust or restricted fee-status land. Tribal members can participate in federal, state elections and some local elections; but, only specified tribal members can participate in tribal elections. As sovereign nations, each tribe is entitled to make the vital decisions about the election administration for its people; yet, this is often not the reality. The desire of elected and appointed tribal leaders to work collaboratively with county and state government officials to facilitate Native American participation in elections has sometimes been met with indifference, resistance, and even hostility. Some counties, as well as state officials, have created barriers to Native American participation in elections, including refusing to work with tribal leaders on the location of accessible polling places and early voting sites.

Too Many Decisions About the Electoral Process Rest in the Discretion of Elected Officials at the County and State Levels. Indeed, political leadership at the Secretary of State level makes an important difference for the provision of effective resources for Native American voters. During the consultation with Native American community leaders, it was agreed that “who administers the elections is more important than the law.”

A Majority of Polling Sites are Located Off Reservations and Have Limited Hours. A major challenge to full voter participation has been the location of polling sites. The decisions as to where to locate polling sites have several consequences as they affect access to early voting and the ability of Native Americans to participate in the general elections. Most polling sites are often not on reservations and are sometimes open only a few hours. Too often location and hours of operations of polling sites are dependent on how receptive an attitude county clerks have towards Native American voting. Often times these restrictions are justified on the basis of budgetary limitations.

Major Problem When Tribal and State/County Elections are Held on Same Day at Different Polling Locations. This poses a huge problem for voters who have to face the difficulty of traveling from one polling place to another. If the

elections are held on the same day; Navajo voters might have to travel 1 ½ hours between the different polling sites.

Mobile Voting Payment Requirements. Another obstacle is that, as rural communities are spread out, the provision of mobile voting opportunities is dependent upon the ability of the tribes to pay for these services. In some circumstances, tribes have been required to pay for accessible trailers mandated by the *Americans with Disabilities Act*.

Lack of Language Translators at Polling Sites. There are eight recognized Native American languages spoken in New Mexico. Local elected officials make decisions as to the provision of translators on site. Often these arrangements are deficient with inadequate numbers of translators for the applicable Native American language(s) especially with many Native American languages being unwritten. Yet, these same polling sites will have Spanish and English Translators. There is no uniform statewide interpretation of what *Section 203* accommodation requires of election officials. Even in situations where a Native American is bilingual in his or her Native language and English, there is a value to explaining the election process and having ballot initiatives described in a Native language to facilitate participation.

Information Provision is Major Challenge. A lack of information continues to be a challenge for many Native Americans. There are few mechanisms to translate major state, local, or federal issues in ways that resonate with average Native people and motivate them to become more politically active.

Moreover, economic conditions of Native Americans vary throughout the state and contribute to the disparity in access to accurate and timely voting information (such as polling site locations and hours of operation) critical to full participation. This lack of information is heightened for the working poor and other Native Americans who live in poverty.

While 40% of all Native American children in New Mexico live in poverty in only six of the Tribal communities are children living in poverty. Sixteen percent of all Native American household receive Supplemental Nutrition Assistance Program. Twenty-two percent of Native American children live in household where no parent is in the labor force. It is estimated that 23% of all eligible Native Americans voter in New Mexico lack a High School diploma.²⁹⁵

Poverty and lack of resources affect information getting to Native American communities. This is because Native American communities are very rural. This lack of information often makes it hard for Native American voters to find the locations of early voting sites.

A Good Statewide Website and a Hard Copy of Indian Voting Information Is Needed. The Secretary of State's office maintains the statewide website. This website can have very good Indian Voting Information in some years, while being very poor in other years. This is a vital resource for Native American voters. Martin Aguilar, Native American Elections Information Program Liaison, is often cited as having done exemplary work in this area. Given the lack of internet access, rural isolation, and poverty, the provision of a hard copy of information to the tribes can be an important tool.

Election Administration Irregularities. Often there are not enough materials, including provisional ballots or proper machines, available at polling sites. Running out of provisional ballots can be a major problem as it can sometimes take more than 90 minutes for election officials to acquire additional supplies from headquarters or elsewhere. Election officials and poll workers must be trained to try to resolve voter problems so that the voter can cast a regular ballot and not overuse provisional ballots. Native American candidates have sometimes been left off of election information distributed to registered voters in advance of elections. Sometimes ballot boxes have gone missing, raising questions about the accuracy of the count; but, with no way to verify the actual vote based on ballots cast.

Efforts to Impose Mail-in Balloting. Election officials have a strong preference for mail-in ballots, but this is not always an effective voting method for some Navajo voters. This preference by election officials often places these voters in conflict with the county election officials who desire that voters use mail-in ballots.

Issues Affecting Native Americans Are Not Included on Local Ballots. Lot of issues on the ballots have nothing to do with the lives of people living on the reservations. Often these include issues around libraries and bonds for town improvements which are not even used by people on the reservations due to the distance.

Voter Suppression. Sometimes rumors are spread that automobile repossession companies will be at off-reservation polling sites to take cars with overdue payments. These repossessions are prohibited on reservations. Therefore, the rumors sound plausible and some Native American voters will stay home to avoid the harassment.

Lack of Legal Protections. Our consultation revealed many concerns about the lack of legal protections for Native American voters. In addition to the polling site access and language non-compliance discussed above, there are other critical legal barriers to voting. One of importance is the serious problem of racially polarized voting. Like many other jurisdictions in the US, New Mexico is impacted by the *Shelby* case and the loss of Section 5 challenges. New Mexico has a sordid history of repeated discrimination against Native Americans in regards to voting. This

history of voting discrimination is accompanied by lackluster enforcement of consent decrees by election officials. Currently, all consent decrees have expired in New Mexico; however, discriminatory practices persist.

Consent decrees were effective in having federal DOJ observer presence. Now, without the consent decrees, the DOJ presence is largely non-existent during elections, allowing for much of the voter non-compliance to go unreported or unchallenged.

Despite advocacy efforts for election reform, proposed election reform legislation rarely touches on reforms that would be meaningful to the Native American community.

Discouragement by Other Factors. We heard that some Native Americans voters are discouraged by a culture of corruption in some state and tribal government officials. Many people lack faith in the system.

RECOMMENDED STRATEGIES TO ADVANCE NATIVE AMERICAN VOTING RIGHTS IN NEW MEXICO

The State of New Mexico must be encouraged and compelled to take positive measures to earn the trust of Native American voters.

Respect Sovereignty of Tribal Nations. This requires real communication and coordination between State and county elected officials, tribal leaders, and tribal election officials. Recently there has been an effort put forth by tribal leaders to meet with and engage newly elected legislative officials. In addition to building relationships with new leadership, this is an opportunity to explain the history and challenges between sovereign nations. These sorts of meetings need to become commonplace and institutionalized so that the particular needs of Native Americans in New Mexico are understood.

State, County, and Local Governments Should Affirmatively Outreach, Engage, and Consult with Tribal Leaders and Tribal Election Officials to Expand the Participation of Native Americans in Government Through Appointments to Boards, Commissions, and Other Significant Roles. Counteracting the long history of exclusion, discrimination, and hostility towards Native Americans will require proactive measures by the government to actively engage Native Americans in government. The significant actions by the State of Montana through the direction of the Governor in working directly with Native American leadership has resulted in a real transformation of Native American representation in government, especially appointed positions. Similar increases in Native American participation in state government occurred during the administration of former New Mexico Governor Bill Richardson as a direct result of campaign promises secured by tribal leaders.

Support Legislation Including the *Native American Voting Rights Act*. This would set standards for state and county coordination with tribal nations for elections, including: setting dates of local elections; early voting; establishing polling site locations; and providing for effective language accommodations. The State of New Mexico should adopt its own version of this legislation until there is a federal law.

Support US Department of Justice Efforts for Permanent Election Monitoring Activities on Indian Peoples' Land. These efforts can include stronger guidance to avoid discrimination against Native American voters.

Mandate Placement of Tribal Elections' and State/Local Election Polling Sites Side by Side on Indian Land at the Same Location (If Elections Must Be Held on the Same Day). Tribal leaders should determine the best location of these polling sites.

Mandate Permanent Polling Site Locations for Early Voting and the General Elections on Indian Lands. Tribal leaders should have authority to decide where polling sites should be located. Legislation should be enacted to mandate early voting and accessible voting sites. For Native Americans who live on reservations, preference should be given to locating polling sites on Indian Lands. More permanent locations for early voting and more permanent locations in general are needed for Native American voters. As discussed under the obstacles section, mobile vans roaming around reservations and rural areas are ineffective for outreach and voting opportunities for Native American voters.

The State Should Pay Costs for Mobile Voting and *ADA* Accessibility, Instead of Tribal Nations. The current law requires localities to pay the cost of providing an *ADA* accessible mobile voting trailer. For many small and rural communities, this is simply not an option and remains a large barrier to voter access.

Standards for Effective *Section 203* Language Translation Assistance at Polling Sites Must Be Developed and Implemented. Local elected officials should have less discretionary authority about when to provide translators, and deference should be given to tribal leaders who request translation assistance at polling sites. The State of New Mexico should provide funds for translation assistance when it is determined that a county lacks the financial resources to do so.

A State of the Art and Effective Information Provision and Outreach Program Should Be Developed by the Tribal Nations and Paid for by the State of New Mexico. Private philanthropy could help facilitate the funding for tribal nations to lead this process of developing the program. The State of New Mexico should bear the costs for the operation of this program.

The Maintenance of the Statewide Website (with Excellent Indian Voting Information and the Provision of Hard Copy Information) Should Be Mandatory, and Not Subject to the Whims of Different Secretaries of States and Administrators. The Statewide website is a critical resource for Native American voters and must be maintained at the best level with the active input and consultation of the tribal nations.

Prioritize Ending Election Administration Irregularities. Working with tribal leaders, the county election officials must professionally develop a plan for each election to: ensure adequate numbers of poll workers and election equipment; ensure that there is correct equipment for Indian Voters; verify correct numbers of paper ballots and provisional ballots; and, address the integrity and security of post-voting ballot boxes. Proposed state, county, and local election information should be reviewed by tribal leaders for corrections prior to distribution to the public. County governments need to institute a complaint process to hold election officials accountable when they violate their duties, discriminate or show partiality to candidates, or engage in other forms of corruption.

Election Administrators Should Consult with Native American Voters Before Relying on Mail-In Balloting as an Alternative to Accessible Polling Sites. This preference by election officials maybe contrary to the best interest of some Navajo voters, in particular, those who have not used mail-in balloting for several practical and cultural reasons.

Statewide, County, and Local Elected Officials Should Coordinate with Tribal Leaders and Tribal Election Officials to Place Appropriate Issues of Interest to Native American Voters on the Ballot.

Programs to Address Voter Suppression Are Needed. Primarily, there must be effective rapid response communications established for rumor control. Placing polling sites on reservations helps to eliminate problems of rumors of predatory automobile repossessions and other harassers. Also, Common Cause has been a good facilitator of Election Protection in New Mexico and these efforts should be supported and expanded.

Greater Legal Protections for Native American Voting Rights Must Be Provided. As discussed above, there is a great need for State and Federal legislation to end voting discrimination against Native American voters and provide for greater political participation in state and federal elections by making voting more accessible on Indian lands. The US Department of Justice should be encouraged to send election monitors or election observers into counties in New Mexico that were formerly covered by consent decrees or for which Tribal Nations indicate have shown particular hostility to Native American voters by refusing to provide for translation, etc.

Support Native American Political Participation Groups and Programs to Encourage Registration, Voter Outreach, Voter Education, Get Out the Vote, and Voter Protection for Native Americans Statewide. Again, the statewide voter engagement program in Montana is a great example of the power of concerted and targeted

programming for this purpose. Public funding should be provided for such non-partisan efforts instead of having individual tribes bear the cost of such an engagement.

Address Voter Discouragement Through Creative and Innovative Campaigns, and Provide Training for More Native Americans to Run for Statewide and Local Office. Respecting the Right of Self-Determination of Tribal leaders, support Them in Encouraging Native Americans to Vote in Statewide Elections.

Support Longer Term Solutions to Address Poverty, Discrimination, and Rural Isolation Experience by Native American Families and Communities in New Mexico.

The economic realities of Native Americans and the high rate of poverty and how this impedes civic engagement must be addressed. Families need economic stabilization. More research is needed on how access to voting is improved by better family support.

Tribal Leaders Need to Encourage Native Americans to Vote in State Elections. When tribal officials are engaged, there is a better turn out. It is important to have role-modeling by tribal officials.

The increased engagement of tribal leaders and their representatives in the state political process, particularly since the negotiation of gaming compacts beginning in the 1990's, has facilitated greater participation by individual Native Americans. Politicians are increasingly paying more attention to Native American issues and concerns because of monetary contributions from some tribes as well as increased Native American voter registration and turnout.

ISSUES FOR THE FUTURE

The 2020 Census and 2021 Redistricting will have a profound impact on the abilities of Native Americans to elect candidates of their choice to office and to command the full potential of their political power. The 19 Pueblos, Jicarilla Apache Nation, and the Navajo Nation were all highly engaged in the 2010 redistricting process which yielded important victories for Native American tribes, voters, and candidates.

CONCLUSION

Native Americans have the ability to be transformative leaders in New Mexico. The unrealized power of the Native American vote and its impact on state and local elections cannot be underestimated. Although longstanding, the hostility and obstacles to Native American voting is not intractable but can be combatted by the Recommended Strategies above.

PARTICIPANTS LIST

Leonard Gorman
Executive Director
Navajo Nation Human Rights Commission

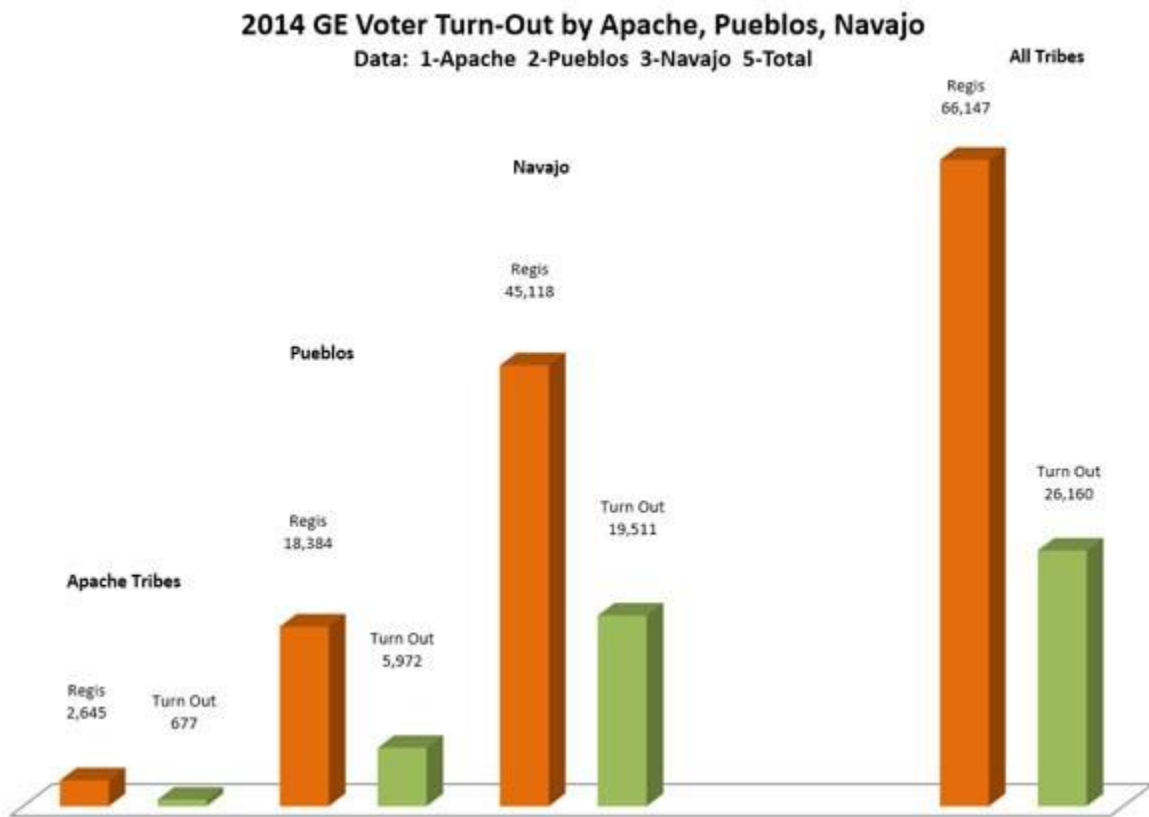
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Keegan King Acoma Pueblo

Nadine Padilla
Laurie Weahkee
Executive Director
Native American Voters Alliance

Linda Yardley Taos Pueblo



Source: New Mexico Secretary of State

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²⁹⁴ The history of race and ethnic identification is complex, including Spaniards and Hispanicized populations that were responsible for colonizing and oppressing Native Americans, and African-descendants. However, the oppression and segregation of Latinos as a result of a “racial and ethnic hierarchy” has been well documented by Laura Gomez, *Manifest Destinies: The Making of the Mexican American Race*. New York: New York UP, 2007. [ISBN 978-0-8147-3174-1](#).

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APPENDIX A- NATIONAL INTERVIEWEES

Macia Johnson Blanco
Co-Director of the Voting Rights Project
Lawyers' Committee for Civil Rights
Under Law

Melanie Campbell
President & CEO
National Coalition on Black Civic
Participation

Virginia Davis
Senior Policy Advisor
National Congress of American Indians

Tanya Clay House
Director of Public Policy Department
The Lawyers' Committee for Civil Rights
Under Law

Rosalind Gold
National Association of Latino Elected
and Appointed Officials

Wade Henderson
President
Leadership Conference on Civil and
Human Rights

Derrick Johnson
State Director
Mississippi NAACP

Kim M. Keenan
Executive Director
The Multicultural Media, Telecom,
and Internet Council

Karen Narasaki
Commissioner
United States Commission on Civil Rights

Spencer Overton
President & CEO
Joint Center for Political and Economic
Study

Ezra Rosenberg
Co-Director Voting Rights Project
Lawyers' Committee for Civil Rights Under
Law

Thomas A. Saenz
President and General Counsel
MALDEF

Dr. Elsie Scott
Founding Director
Ronald W. Walters Leadership and Public
Policy Center

Joel Segal
Former Counsel
US House of Representative, The
Honorable John Conyers Jr. (MI-13)

Dr. Charles Steele
CEO
Southern Christian Leadership Conference

T-Dubb-O
Director
Hands Up United

Jacqueline Johnson Pata
Executive Director
National Congress of American Indians

Rika Tyler
Program Director
Hands Up United

Irene Kawanabe
Program Director
National Conference of State Legislatures

Arturo Vargas
Executive Director
National Association of Latino Elected
and Appointed Officials

Bob Kengle
Senior Counsel
Lawyers' Committee for Civil Rights
Under Law

Malia Villegas
Director, Policy Research Center
National Congress of American Indians

Justin Levitt
Professor
Loyola University Law School

Tova Andrea Wang
Director
Democracy Program Communications
Workers of America

Mee Moua
President
Asian Americans Advancing Justice

Wendy Weiser
Director
Democracy Program at the Brennan
Center for Justice

Greg Moore
Director
NAACP Voter Action Fund

Rev. Lennox Yearwood
President & CEO
HIP-HOP Caucus

Appendix B- Research Team Credentials

BARBARA ARNWINE, ESQ.

Barbara R. Arnwine is the Founder and Executive Director of the Transformative Justice Coalition. Ms. Arnwine served as the executive director of the Lawyers' Committee for Civil Rights Under Law from 1989-2015. Born in southern California, Ms. Arnwine is a graduate of Scripps College and Duke University School of Law. After graduating from Duke Law School, she stayed in Durham and worked for the Durham Legal Assistance Program and as a Reginald Huber Smith fellow. She moved on to the legal service's head office in Raleigh, North Carolina in 1979, working on affirmative action policies, reviewing contracts, and legal aid programs. In the 1980's, she served as executive director of the Boston Lawyers' Committee for Civil Rights.

She became renowned for her work on the passage of the *Civil Rights Act* of 1991. She also focused on international civil rights matters, serving as a member of the advance team of the Lawyers' Committee's South Africa Electoral Observers Delegation. In 1995, she served as the National Convener of the National Conference on African American Women and the Law and led a delegation to the NGO Forum and Fourth World Conference on Women in Beijing. Her involvement contributed to a United Nations Platform for Action that provides protection for women against multiple forms of discrimination. In 2001, Ms. Arnwine helped draft provisions of the program for action for the UN World Conference Against Racism, Racial Discrimination, and Xenophobia in Durban, South Africa.

She is a leader of Election Protection (EP), the nation's largest nonpartisan voter protection coalition, launched in 2004 to assist historically disenfranchised persons to exercise the fundamental right to vote. In 2008, EP involved more than 10,000 volunteers and the EP hotline received more than 240,000 calls.

Ms. Arnwine has received numerous awards, including: the National Bar Association's Gertrude E. Rush Award and the National Black Law Students Association's Sadie T.M. Alexander Award in 2011; the Washington D.C. Freedom's Sisters Award and the Keeper of the Flame Award from the Boston Lawyers' Committee in 2009; the Rockwood Institute Leadership Fellowship in 2008; the National Bar Association's Equal Justice Award and the C. Francis Stradford Award in 2007; and, the Charlotte E. Ray Award from the Greater Washington Area Chapter, Women Lawyers Division of the National Bar Association in 2002. She was one among five recipients of the 2011 Gruber Prize for Justice.

Frequenting the conference circuit, Ms. Arnwine also writes numerous articles and is regularly featured by media outlets such as the American Bar Association's Human Rights Magazine, the New York Times, the Washington Post, BET, TV One, and other national and local media.

HALIMAH NAJIEB-LOCKE

EDUCATION:

The George Washington University Law School (GWU), Washington, D.C.

LL.M. Candidate in Government Procurement Law

May 2016

Juris Doctor, 2015 Justice Thurgood Marshall Civil Liberties Award Recipient

May 17, 2015

- Research Assistant, Dean Alfreda Robinson, GWU Law School
May 2014- May 2015
- National Director of Communications, National BLSA Board
April 2013-March 2014
- National Corporate Relations Specialist, National BLSA Board
February 2013- April 2013
- GWU Law Mock Trial Board Member
February 2013- May 2015
- Vice President of Outreach, GWU Law SBA
April 2013- April 2014
- ABA Law School Representative, GWU Law School
April 2013- April 2014
- Staff Member, Federal Circuit Bar Journal
July 2013- May 2015

University of San Francisco (USF), San Francisco, CA

May 19, 2011

Bachelor of Arts cum laude in English with an emphasis in Literature, Minor: Criminal Justice,
Honors in Humanities

Honors and Activities:

- President, Associated Students of the University of San Francisco
June 2010-June 2011
- Father John P. Schelgel, S.J. Award from the Student Life Division at USF
May 2011
- Excellence in Leadership and Service Award from the Student Life Division at USF
May 2010
- Sigma Tau Delta English Honor Society Member
October 2009
- Alpha Sigma Nu Jesuit Honor Society Member
April 2009

RELEVANT WORK EXPERIENCE:

National Black Law Students Association (NBLSA), Washington, DC

National Chair, April 2014-March 2015

- Exercised general authority over the business and activities of NBLSA
- Coordinated the activities of the National Executive Board to ensure implementation of all internal and external tasks
- Chaired all National Executive Board Meetings and presided over the General Assembly
- Presented ideas and proposed directions for the organization and held ultimate fiduciary duty

U.S. House of Representatives, the Honorable Maxine Waters, Washington, DC

Press and Policy Intern

February 2014-May 2014

- Served the constituents of the Congresswoman by answering questions regarding legislation
- Drafted Press Releases, Newsletters, Speeches and Website postings for the Congresswoman
- Researched legislation and topics of public concern and drafted memos briefing the Congresswoman and staff

Advancement Project, Washington, DC

Legal Intern

May 2013-August 2013

- Worked closely with staff of civil rights attorneys and communication experts to create and implement legal strategies to support identified community-organizing efforts around racial justice issues
- Rotated with all of the program areas including Ending the Schoolhouse to Jailhouse Track, Rights Restoration, Voter Protection, and Quality Education to research pertinent legislation and draft memorandums based on needed information

University of San Francisco, Division of Student Life, San Francisco, CA

Service Manager

August 2011- July 2012

- Oversaw the customer service being provided by all 7 student service departments within Student Life Division
- Streamlined all efforts to outreach to students by the departments in the Student Life Division
- Managed staff of 10 including supervision, scheduling, and team building activities

Dennis Herrera for Mayor Campaign 2011, San Francisco, CA

Faith Outreach Coordinator

March 2011-November 2011

- Organized efforts of outreach to various religious organizations and congregations for the Candidate to increase knowledge of areas of interest for this demographic
- Researched information regarding various democratic clubs and developed ways to solicit votes for the candidate
- Assisted in coordinating staffing for various campaign efforts between Volunteers and Field Staff

U.S. Senate, the Honorable Barbara Boxer, San Francisco, CA

Intern

September 2010-December 2010

- Served the constituents of the Senator by answering questions regarding legislation
- Entered casework of constituents needing help with Federal Agencies into the Senator's database

AARON TOBIAS POLKEY, JD

EDUCATION

University of South Carolina, Columbia, SC
Juris Doctor, awarded May 2005

Honors: Order of the Barristers; Moot Court Best Oral Advocate; CALI Award, Civil Procedure I

Activities: National Moot Court Team; SOUTHEASTERN ENVIRONMENTAL LAW JOURNAL; Public Interest Law Society

Georgetown University, Washington, DC
Bachelor of Arts in Government and History, awarded May 2002

Honors: Georgetown College Medal; McTighe Prize; Landegger Grant; Outstanding Student Leader Award

Activities: Senior Class President; Student Association Representative

EXPERIENCE

Attorney Advisor, District of Columbia Office of the Tenant Advocate, Washington, DC
Jan. 2013 – present

Litigate landlord-tenant and housing code cases in D.C. Superior Court. Litigate and mediate rent control and other disputes in the Office of Administrative Hearings. Regularly represent tenants in emergency temporary restraint order/preliminary injunction hearings. Interview walk-in visitors for drafting and other services or counseling and referral to various social service providers. Conduct tenants' rights presentations before tenant associations. Research and draft white papers and other materials for legislative advocacy and regulatory rulemaking.

Contract Attorney, Washington, DC
Apr. 2009 – Dec. 2012; Apr. 2008 – June 2008

Managed discovery productions conducted by prominent law firms, primarily in response to subpoenas issued by public agencies. Initially reviewed documents at preliminary and quality control levels. Promoted to draft witness preparation summaries, deposition questions, privilege reviews/logs, and other substantive research and writing projects. Promoted to Project Manager, responsible for the workflow and accuracy of teams of up to 25 attorneys.

Staff Attorney, Advancement Project, Washington, DC

June 2008 – Dec. 2008

Advocated for fair elections practices. Cultivated partnerships with elections officials and community organizations. Drafted citizen voter protection resources. Managed public records (FOIA) requests and review processes. Litigated registration purge and polling place resources lawsuits. Staffed Election Day command center.

Associate Attorney, Derfner, Altman, & Wilborn, Charleston, SC

Jan. 2006 – Jan. 2008

Represented and organized underserved citizens and communities in civil and voting rights, employment discrimination, predatory lending, landlord-tenant, land preservation, estate planning, serious injury, zoning, and criminal matters. Researched and drafted intake, opinion and mediation memoranda, pleadings, briefs, and motions filed in state and federal courts and for use in mediations and arbitrations. Prepared discovery requests, deposed parties and witnesses, and reviewed productions for responsiveness.

Summer Law Clerkships:

- Young Clement Rivers, Charleston, SC, June 2004 – Aug. 2004
- Richardson, Patrick, Westbrook, & Brickman, Barnwell, SC, May 2004 – June 2004
- Derfner, Altman, & Wilborn, Charleston, SC, May 2003 – Aug. 2003

Academic-Related Experience:

- Teaching Assistant, Professor David Linnan, Jan. 2005 – May 2005
- Civil Procedure Tutor, Academic Assistance Program, Aug. 2004 – May 2005
- Judicial Extern, Hon. Margaret Seymour, U.S. District Court (D. S.C.), Aug. 2004 – Jan. 2005

OTHER

Bar Admissions: Maryland (Dec. 2012); District of Columbia (Mar. 2009); South Carolina (Nov. 2005)

Publication: Author, Fraud and Misrepresentation, in SOUTH CAROLINA DAMAGES (Terry Richardson, Jr. and Daniel Haltiwanger, eds., 2004, revised James Ward, Jr., and Edward Westbrook, eds., 2009).

H. ALEXANDER SATORIE-ROBINSON, MBA

EDUCATION

Pennsylvania State University	1979	Master Business Administration
	1976	BS Accounting, Political Science

PROFESSIONAL EXPERIENCE

President
Satorie-Robinson & Associates
Washington, D.C. (1998 - Present)

Organize and conduct focus groups, strategic planning, qualitative data analyses, draft research manuscripts and reports and manage voter education campaigns for a variety of social justice organizations including: NAACP, NAACP Voter Fund, and Leadership Conference on Civil Rights, National Council of LaRaza, Drug Policy Foundation, Open Society Institute, and Cities Advocating Emergency AIDS Relief Coalition.

Vice President for Operations
Living with Earth (LWE)
Baltimore, Maryland (2015-Present)

LWE is a Maryland Benefit Corporation which provides environmentally sound and sustainable short and long-term housing and accommodations. LWE operates four urban and one rural property as a Bed and Breakfast and communal living suites. LWE provides economic and learning opportunities beyond jobs for African American, LGBT, and other socially marginalized populations.

Tax Site Manager
Volunteer Income Tax Assistance Program
Center for Urban Families (2013-2015)

Managed all aspects of tax preparation site. Supervised tax preparation by IRS certified tax preparers. Reviewed individual tax returns and administered IRS Volunteer Income Tax Assistance (VITA) and the Tax Counseling for the Elderly (TCE) Programs.

**Director of Operations & Development
National Coalition to Abolish the Death Penalty (2012-2014)**

Member of the management team tasked with managing the day-to-day operations and development/fundraising program of a national advocacy organization, marshalling limited resources to the most productive use. Planned, maintained, and monitored staff levels and driving performance measures.

**Chief Development Officer
Creative Alliance (2010-2012)**

Member of senior management team overseeing fundraising and marketing operations that successfully resulted in increased annual contributions and new multi-year financial commitments. Redesign of the organization's web site and social media marketing initiatives.

**Chief Executive Officer
National Black Justice Coalition
Washington, DC (2004-2009)**

Founding executive director built \$1.3 million national LGBT civil rights initiative. Served a successful tenure by building a staff team, volunteer corps, and donor pool and consistently achieved the organization's program goals and financial objectives.

**Senior Legislative Representative
American Civil Liberties Union
Washington, D.C. (1991 - 1996)**

Chief lobbyist on civil liberties issues related to people living with HIV/AIDS and other disabilities, gay/lesbian civil rights, and health care reform, worked with members of Congress, the Administration, and the media to achieve legislative and policy aims of the ACLU.

**Deputy Executive Director
National Minority AIDS Council
Washington, D.C. (1988 - 1990)**

Supervised operations including accounting and fundraising programs as well as led the development of a national HIV/AIDS prevention/education training program.

**Producing Director
Lorraine Hansberry Theatre
San Francisco, California (1986 – 1988)**

Managed accounting, fundraising, and marketing initiatives and led Actor's Equity contract negotiations.

ANDREW STREET, JD

EDUCATION

The George Washington University Law School, Washington, DC

Juris Doctor, Candidate, May 2015, GPA: 3.221/4.0

Honors: 2015 Excellence in Oral Advocacy, The McKenna Long & Aldridge Government Contracts Moot Court Competition; 2015 President's Volunteer Service Award

Activities: Federal Communications Law Journal, *Managing Editor*
Mid-Atlantic Black Law Student Association, *Chief of Staff*
Political Law Society, *Member*

International Business Law Summer Program, University of Augsburg, Augsburg, Germany

June 2014-July 2014

Georgetown University, Georgetown College, Washington, DC

Bachelor of Arts, May 2012

Major(s): English: Culture, Media, & Performance Studies and Government: American Government

Honors: 2012 NAACP Service Award; The 2012 Visions of Excellence Award

Activities: Center for Multicultural Equity and Access Black House, *Resident*
Black Student Alliance, *Vice President*

EXPERIENCE

Echostar Corporations, Germantown, MD

Regulatory Affairs Law Clerk, September 2014-May 2015

- Researched complex international regulations surrounding satellite communications for licensing proposals.
- Drafted comments and advisory letters directed at various domestic and foreign regulatory agencies.
- Attended industry and government meetings to represent the company's interests.

Heurich House Museum, Washington, DC

Legal Intern to the Executive Director, May 2014-August 2014

- Analyzed, reviewed, and organized the museum's real estate transaction documents for inconsistencies.
- Researched the relevant local and federal real estate transaction laws for non-profit organizations.
- Communicated with District of Columbia government agencies to aid the foundation's application for real property tax exemption.

D.C. Superior Court, The Chambers of the Honorable Robert Rigsby, Washington, DC
Judicial Intern, January 2014-April 2014

- Drafted bench memoranda, opinions, and orders for divorce, legal separation, custody, visitation, and child support proceedings.
- Researched, summarized, and analyzed complex issues of family law including international law.
- Assisted clerk in hearing and trial preparation by reviewing and summarizing pleadings and motions.

District of Columbia Housing Authority Office of General Counsel, Washington, DC
Legal Intern, May 2013-August 2013

- Drafted and created strategies for impending lawsuits that analyzed possible claims and arguments.
- Researched Federal and District of Columbia corporate, labor, housing, and construction regulations to ensure agency compliance with established real estate law.
- Analyzed real estate contracts for legal inconsistencies and errors.
- Wrote briefs, letters, contracts, and memorandum for supervising attorneys.

U.S. House of Representatives, The Honorable Steny Hoyer's Democratic Whip Office, Washington, DC

Winter Semester Intern, December 2011-January 2012

- Drafted correspondence on behalf of Representative Hoyer and provided support at official events.

LANGUAGE & INTERESTS

- Intermediate French (comprehension and writing)
- Karaoke, Docudramas, Creative Writing

LAKELIA STEMMONS, JD, MBA

EDUCATION

May 2001 **University of Missouri-Columbia School of Law** Columbia, MO
Juris Doctris

Thurgood Marshall Scholarship
Fred L. Howard Prize for the Advancement of Advocacy

May 1998 **Lincoln University** Jefferson City, MO
Master of Business Administration

May 1996 **University of Missouri-Columbia** Columbia, MO
BA, Interdisciplinary Studies with emphasis in Business Administration, Economics, & Psychology

Ponder Minority Business Scholarship

SUMMARY OF QUALIFICATIONS

September 2002 State of Missouri
Admitted to the Missouri Bar

January 2006 District of Columbia
Admitted to the DC Bar

PROFESSIONAL EXPERIENCE

March 2013-current **Epiq Systems, Inc.**, Washington, DC
E-Discovery Attorney/DLA Piper

- Conducts detailed analysis of documents and material under investigation, identifies trends, and synthesizes facts in order to communicate relevant updates to team.
- Performs legal research and writing regarding state and Federal laws applicable to the financial services industry.

May 2013-current **Veterans Pro Bono Consortium**, Washington, DC
Pro Bono Attorney

- Represents veterans and VA claimants in their appeals before the U.S Court of Appeals for Veterans Claims (CAVC).

July 2012-current **National Bar Association**, Washington, DC
Policy Advisor to President-Elect Benjamin Crump

- Develops and implements all policy objectives, strategies, and operating plans for the President's Washington, DC office.

Deputy Chief of Staff to President Patricia Rosier

- Developed and implemented all policy objectives, strategies, and operating plans for the President's Washington, DC office.
- Coordinated the launch of the National Bar Association's national initiative addressing the issue of minority vote dilution.

Aug 2012-Nov 2012 **Florida Democratic Party**, Fort Lauderdale, FL
Regional Get Out to Vote Director

- Worked along-side the Regional Field Director to execute get out to vote efforts.
- Responsible for the training of volunteers participating in get out to vote efforts.
- Responsible for the coordination, management, and recruitment of out of state volunteers participating in the vote corps program.
- Responsible for the coordination and implementation of faith based out-programs.
- Responsible for the planning and setting up of staging locations.
- Responsible for the disbursement of literature, supplies, and equipment to regional field offices.
- Worked along-side the Regional Field Director to execute principal and surrogate events in the region.

Feb 2011-March 2013 **ABC Cardiology Consultants, PC**, Washington, DC
General Counsel/Practice Administrator

Feb 2007-Jan 2011 **Covington & Burling LLP**, Washington, DC
Senior Staff Attorney

Feb 2004-Jan 2007 **Excalibur Staffing Services**, Washington, DC
Contract Attorney Project Manager

Dec 2003-Feb 2004 **Matthews Carter & Boyce PC**, Fairfax, VA
Tax Consultant

Sept 2001-Dec 2003 **Ernst & Young LLP**, Clayton, MO

ACKNOWLEDGMENTS

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